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THE INCOME TAX

IN THE

Commonwealths of the United States

BY

DELOS O. KINSMAN, PH. D.

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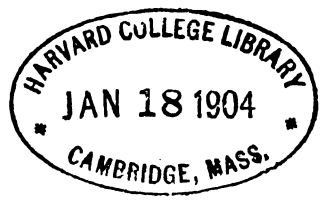

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PREFACE

In the preparation of this monograph I have had chiefly in mind students of finance. Still it is hoped that the work may prove of value to legislators, and of interest even to the casual reader. The history of the income tax in the commonwealths is first presented in considerable detail, because the data regarding the tax have been widely scattered heretofore, and in order that the reader may have the basis on which the conclusions of the monograph rest. The last chapter is recommended to those who wish only the general statements regarding the tax, and the conclusions of the study.

As laws are so often passed and repealed without appearing in the revised statutes, this work has been based upon a careful examination of the session laws passed in each state from the time it entered the Union until the present time. Further, the court reports, financial reports, governors' messages, state constitutions, and various other sources of material have been examined. Only a limited use has been made of secondary authorities.

I am greatly indebted to a large number of individuals for assistance rendered in the preparation of this monograph. I am under special obligations to the governors, state treasurers, comptrollers and other officers in those states in which the income tax has been levied, and particularly is this true of the officers

in those states where the tax is levied at the present time. To the several persons who have read the manuscript and offered many valuable suggestions, I wish to express my gratitude.

I can not close without a plea for a more careful study of the financial systems of our states. A better knowledge of them would certainly prevent the repetition of many costly experiments.

DELOS O. KINSMAN.

Whitewater, Wis.,

CONTENTS

CHAPTER I

THE INCOME TAX IN THE COLONIES[1]

The history of the income tax in the commonwealths of the United States covers a period of more than two hundred and fifty years. In this monograph it is the purpose to study in detail the income tax[2] in each of the commonwealths employing it, and to present the conclusions which these facts seem to warrant.

The history may be divided into two periods. The first, that of the "faculty" tax, closed about 1825. It was characterized by a loose method of determining the taxpayer's ability, the levy being made upon an estimated or assumed income of the individual. The second period, that of the income tax proper, continuing to the present time, has been characterized by the attempt to assess and tax the exact income of the individual. Our study is concerned principally with the second period. But as a number of the principles employed in the second period were introduced in the first, it will be necessary, by way of introduction, to examine this earlier period.

THE NEW ENGLAND COLONIES

Massachusetts.—The New England colonies were the first to levy the faculty tax. As early as 1634 the general court of Massachusetts Bay ordered that

[1] Professor E. R. A. Seligman's valuable article on this subject in the *Political Science Quarterly* for June, 1895, has been used extensively in the preparation of this chapter.

[2] For our purpose we shall define an income tax as a tax directed against the income of *individuals*, and employing as the basis of assessment either the *exact* or the *approximate* income.

"in all rates and public charges the towns should have respect to levy every man according to his estate, and with consideration of all other his abilities whatsoever and not according to the number of his person."[1] The pilgrims of New Plymouth, early recognizing the unfairness of the property tax, supplemented it with the faculty tax in 1643. The law of that year distinguished between visible property and faculty, designating the latter as an independent source of taxes. It required each town to choose by ballot three or four men who should rate all the inhabitants "according to their estates or faculties; that is, according to goods, lands, improved faculties, and personal abilities."[2] In 1658 a new law provided that all rateable persons "should be rated according to their visible estates and faculties; that is, according to their faculties and personal abilities."[3] This provision was repeated in the act of 1665.[4] In 1689 the law was so changed as to require fixed valuations for visible property, while the valuations of "faculties and personal abilities" were to be determined "at will and doom."[5]

From the first the legislation of the colony of Massachusetts Bay was more explicit. By a law of November 4, 1646, the faculty tax was added to the existing property and poll taxes. Every laborer, artificer, and handicraftsman who made in summer 18 pence or

[1] Records of the colony of Massachusetts Bay in New England, vol. I, p. 120.

[2] Laws of New Plymouth, 1623–82, Pulsifer's ed., XI, p. 42.

[3] Plymouth colonial records, XI, p. 142.

[4] Records of the colony of New Plymouth, Pulsifer's ed., XI, p. 211.

[5] Plymouth colonial records, VI, p. 221.

more a day was required to pay annually 3 shillings 4 pence into the treasury over and above the 20 pence poll tax; and all other persons, such "as smiths of all sorts, butchers, bakers, cooks, victuallers," were to be rated according to their "returnes and incomings," "proportionable to the product of the estates of other men." The law exempted all persons unable to pay the tax on account of sickness, lameness, or other infirmity.[1] In the following year the tax of 3 shillings 4 pence was removed from laborers, artificers, and handicraftsmen, but was continued upon persons engaged in the arts and trades. In this form the law remained until the union in 1692.

The union of the colonies into the province of Massachusetts brought no important change in the tax system. Two acts were passed at once; one requiring that all estates, real and personal, be taxed according to yearly "value or income," and the other, that "every handicraftsman be assessed for his income determined by the rule of common estimate at the best discretion of the assessor."[2] In 1695 the tax upon handicraftsmen was fixed at "4 pence on the pound for his income;"[3] four years later it was lowered to one penny on each pound of income derived from any "trade or faculty."[4] In 1697 the assessors were required to place in a distinct column the amount each person was assessed on his personal estate and faculty by his trade or faculty.[5] This pro-

[1] Colonial records of Massachusetts Bay, II, pp. 173–74.

[2] Acts and resolves of the province of Massachusetts Bay, 1692–93, chap. 41, sec. 1.

[3] Acts and resolves of the province of Massachusetts Bay, 1695–96, chap. 6, sec. 4.

[4] Acts and resolves of the province of Massachusetts Bay, 1699–1700, chap. 27, sec. 1.

[5] Acts and resolves of the province of Massachusetts Bay, 1697, chap. 23, sec. 1.

vision was repeated in 1700.[1] The evident purpose was to ensure greater care in the assessment.

In 1706 it was provided that the tax should be levied only upon such income as was derived from any trade or faculty, exercised by any person, or from other estate not otherwise assessed.[2] In 1738 an effort was made to make the law more definite and more general in its application. It was now required that "the income or profit received by any person from any trade, faculty, business, or employment whatsoever, and all profits which may or shall arise by money or other estate not particularly otherwise assessed, or commissions of profit in their improvement according to their understanding and cunning should be taxed at one penny on the pound to abate or multiply the same, if needs be, so as to make up the sum hereby set and ordered for such town or district to pay."[3]

With but slight changes in the rate this law continued until 1777, when it was so modified as to approach still more closely its modern form. The taxpayer was made subject to a tax on the amount of his income received from any profession, faculty, handicraft, trade, or employment. A similar tax was levied upon all incomes and profits gained by domestic or other trade.[4] The following year the assessors were required in assessing the income and profit to take into consideration the way in which the income and profit were made and to assess them at such rates as they on oath judged

[1] Acts and resolves of the province of Massachusetts Bay, 1700–1, chap. 13, sec. 1.

[2] Acts and resolves of the province of Massachusetts Bay, 1706–7, chap. 6, sec. 2.

[3] Acts and resolves of Massachusetts Bay, 1738–39, chap. 1, sec. 14.

[4] Acts and resolves of Massachusetts Bay, 1777–78, chap. 13, sec. 2.

to be just and reasonable, provided they did not assess such income and profit at more than five times the amount in other kinds of estates.[1] In 1780 the assessors were permitted, in case they saw fit, to assess such income at ten times the same amount in other kinds of estates.[2] The first state constitution, adopted in 1780, provided that the public charges should be assessed "on polls and estates in the manner that had hitherto been practical," and consequently the law continued in force.

Throughout the colonial period the assessment and collection of the faculty tax was generally made by the same officials and at the same time as the property and poll taxes. It is impossible to ascertain the amount yielded by the tax, as the receipts from it were not separated from those from other sources.

The early colonists of Massachusetts recognized the fundamental principle of taxation, that each should contribute according to his ability. They saw that this ability could best be measured by income and that the attempt to reach income through the sources from which it is derived touched only material sources, thus permitting the escape of many and distributing the burden of the tax unequally among the remainder. Accordingly, the ability of the farmer was measured by the annual product of his land and the ability of the tradesman or laborer by his income. Although the method employed in measuring the income was faulty, seldom more than a rough estimate being made, and this often by the assessor himself, nevertheless an effort was clearly made to reach income and to make it the basis of taxation. During this period Massachusetts developed the tax from an indefinite, uncertain levy upon "faculty"

[1] Acts and resolves of Massachusetts Bay, 1779–80, chap. 12, sec. 2.
[2] Acts and resolves of Massachusetts Bay, 1779–80, chap. 30, sec. 2.

to a tax upon wages and profits. Indeed, the law had become so definite that since 1780 it has received but little modification.

Connecticut followed the plan of Massachusetts. In 1648, as a result of dissatisfaction due to inequalities of taxation, the colony of New Haven appointed a committee to consider the advisability of modifying the system.[1] This committee investigated the Massachusetts system, and, while expressing doubt as to the desirability of taxing houses and household goods, thought the method of taxing tradesmen an effective one, and recommended it for Connecticut. As a result a law taxing the income of tradespeople was enacted in 1649. It also provided that due consideration be given to the permanency of employment and the standard of comfort.[2] In the following year the instructions for assessing property, copied verbatim from the Massachusetts Bay law of 1646,[3] required the faculty tax to be levied on all "manual persons and artists." It remained in force until near the beginning of the eighteenth century, when legislation took a more independent form in Connecticut. It was now provided that "all persons who by their acts and trades are advantaged, shall be rated in the list proportionable to their gains and returns." This was made to include butchers, bakers, and all other artisans, tradesmen, and shopkeepers.[4]

However, the different methods of computing income employed by the assessors caused much trouble, and various attempts were made to correct the evil. In 1771, for instance, the law provided that: "all traders

[1] Records of the colony and plantation of New Haven, vol. I, p. 448.
[2] Records of the colony and plantation of New Haven, vol. I, p. 494.
[3] Colonial records of Connecticut, I, p. 549.
[4] Acts and laws of Connecticut (New London, 1715), p. 100.

by wholesale, tradesmen, artificers, tavern-keepers and others by law rateable on account of their faculty or business, shall be rated in the list to the amount of their annual gains, incomes or clear profits by means of the business, according to the best estimate that can be made thereof by the listers, who shall assess such traders, tradesmen, etc., by their best discretion, agreeable to the rules already laid down. But when it appears that any person has been unsuccessful or sustained considerable losses in trade the listers may make proper abatement for the same. And if any person shall be assessed by the listers for any of the matters aforesaid more than at the rates aforesaid, upon proof thereof, by oath or otherwise, to the satisfaction of the listers, or authority and selectmen, who have right by law to grant relief, such overcharge may be abated."[1] This provision was retained without substantial change until its repeal in 1819.

The tax was described by Wolcott in 1796 as one assessed in proportion "to the estimated gains or profits arising from any and all lucrative professions, trades and occupations, excepting compensations to public officers, the profits of husbandry and common labor for hire."[2] The total assessed value of such incomes in Connecticut in the year 1795 was a little over $300,000.[3] The principle underlying the Connecticut tax system was well summarized by the Connecticut tax commission of 1887: "Connecticut from her earliest history had followed the plan of taxing incomes rather than property. Those pursuing any trade or profession were assessed on an estimate of their annual gains. Real estate was rated not according to its value but in proportion to the an-

[1] Colonial records of Connecticut, 1768-72, vol. XIII, p. 513.

[2] American state papers, Finance, vol. I, p. 423.

[3] American state papers, Finance, vol. I, p. 454.

nual income which, on the average, it was deemed likely to produce. Land was put into the list at a fixed rate for each kind, not because these sums were deemed to be the value of the land, but because they were thought to represent the average income they would produce."[1]

Rhode Island, like Massachusetts and Connecticut, recognizing at an early date the injustice of the property tax when used alone, attempted to supplement it by the taxation of faculty or income. Her efforts, however, were less persistent than those of the other two colonies, and the tax was primitive and of comparatively short duration. The first attempt to levy a faculty tax was made in 1673,[2] when the assembly declared that, for the sake of justice, the tax ought to be assessed not alone according to property, but partly according to the "faculty" or "profit and gains" of individuals. A later act provided that three able and honest men should be chosen in each town to "take the view of each of their inhabitants," and they were directed when assessing the merchants and tradesmen "to make this part of the rate according to the yearly profit."[3] For over half a century the law remained substantially in this form; in 1744 the assessors were still required to "consider all persons who made profit by their faculties and rate them accordingly."[4] But the law appears soon to have fallen into disuse, no mention being made of it in the revised laws of 1766.

New Hampshire also had a faculty tax, but her expe-

[1] Report of the special commission of Connecticut on taxation, 1887, pp. 9-10.

[2] E. R. A. Seligman in *Political Science Quarterly*, June, 1895.

[3] Colonial records of Rhode Island, vol. III, p. 301.

[4] Acts and laws of His Majesty's colony of Rhode Island and Providence plantations, p. 295.

rience, like that of Rhode Island, was limited and unsatisfactory. In 1719 the selectmen were instructed to assess the inhabitants "according to their known ability and estate."[1] In 1739 the form of the law was changed and the assessors were directed to "assess the polls and estates of the inhabitants, each according to his ability."[2] In 1772 a provision was introduced requiring each person's "faculty" to be estimated at the discretion of the assessor, though the amount could in no case exceed twenty pounds.[3] By the close of the century the tax had disappeared, no mention of it being made in the tax law of 1794, although some forms of property were still rated at a certain per cent of their net income.[4]

Vermont followed the example of the other New England colonies, though her experience was later than theirs, beginning in 1778 and extending to about the middle of the nineteenth century. The first act which requires notice here provided "that all allowed attorneys at law in the commonwealth should be set in the annual list for their faculties, the least practitioner fifty pounds, and the others in proportion, according to their practice, to be assessed at the discretion of the listers of the respective towns where the attorneys live during their practice as such. All tradesmen, traders and artificers shall be rated in the lists proportionable to their gains and returns."[5] This act was not changed until Vermont became a state, when it was so modified that attor-

[1] Acts and laws of His Majesty's province of New Hampshire, 1761, p. 30.

[2] Acts and laws of His Majesty's province of New Hampshire, 1761, p. 180.

[3] Laws of 1772, act of January 2.

[4] American state papers, Finance, vol. I, p. 419.

[5] Laws of Vermont, 1779.

neys were also taxed "proportionable to their gains according to the best judgment of the listers."[1] Appeal was allowed to a justice of the peace and two selectmen of the town for a final decision.[2]

In 1797 the scope of the tax was materially extended and it was provided that all "licensed attorneys, practitioners of physic or surgery, merchants, traders, owners of mills, mechanics and all other persons who gain their livelihood by buying, selling or exchanging, or by other traffic not in their regular channel of mercantile life" should be taxed in proportion to the gains of their respective professions, employments, or businesses, according to the best discretion and judgment of the listers.[3] The law remained in this form until 1825, when limits were set to the amount chargeable. This varied with the different sources of income; professional men, such as physicians, surgeons, and lawyers, were to be listed at not less than ten dollars or more than three hundred dollars, merchants and traders between fifteen dollars and six hundred dollars, manufacturers and mechanics at sums not to exceed one hundred dollars, "according to the best discretion of the listers."[4] After being tried in this form for sixteen years the law in 1841 disappeared from the statute books. In the following year the tax upon physicians, surgeons, and lawyers was revived[5] and remained in force until 1850.[6] No subsequent attempt has been made to tax incomes.

[1] Laws of Vermont, 1791, p. 266.

[2] American state papers, Finance, vol. 1, p. 418.

[3] Compilation of laws of 1797, p. 565.

[4] Laws of Vermont, 1825, chap. IX, p. 13.

[5] Laws of Vermont, 1842, chap. I, p. 5.

[6] Laws of Vermont, 1850, chap. 39, p. 28.

THE MIDDLE COLONIES

New York.—Although the faculty tax was levied by all the middle colonies at some time during their history, their experience was limited compared with that of the New England colonies. A New York law of 1778 provided that the assessors, after administering an oath to any person in their district whom they knew or suspected to have gained by "trade, merchandise, traffic or manufactory" one thousand pounds or upwards since September 12, 1776, should ask such person the amount thus gained; and that for each one thousand pounds so gained, a tax of fifty pounds should be levied over and above the one penny and a half assessed upon the personal estate.[1] This appears to have been the only attempt made to assess income of any kind.

New Jersey, likewise, made but one brief attempt to tax incomes. In 1684 an act was passed empowering the assessors to tax all freemen engaged in business for profit upon the amount received "according to the discretion of the assessors."[2] This attempt to reach profits was never again mentioned in the statutes.

Delaware at a very early period levied a tax, apparently on income from land as well as from other sources. Three exemptions were made—the income received by persons who had not been six months free from servitude, by persons under twenty-one years of age, and that received from uncultivated land. Wolcott informs us that in 1796 the rate of taxation had been fixed for a considerable period at one-fifth of the annual income. It was not until 1796 that a tax was levied expressly

[1] Laws of New York, 1778, first session, chap. 17, act of March 28.

[2] Laws of New Jersey, 1664–1702, Leaming and Spicer, p. 494.

upon faculty. This tax was primarily upon profits, the law providing that the assessors ascertain "the stock of merchants, tradesmen, mechanics and manufacturers for the purpose of regulating assessments upon such persons in proportion to their gains and profits."[1] This law appears to have been repealed after a short trial.

Maryland, during the colonial period, relied almost wholly on poll taxes for her revenue. She made no use of the faculty tax until the adoption of her state constitution in 1777, when a law was passed which in some respects differed from any of those previously enacted. New England had made a special effort to tax tradesmen; New York and New Jersey had tried to reach profits; Maryland attempted to reach those receiving professional incomes and salaries. This law required that in addition to the tax upon property, a tax of one-quarter of one per cent should be levied on the "amount received yearly" by "every person having any public office of profit or annuity or stipend" and on "the clear yearly profit" of "every person practicing law or physic, every hired clerk acting without commission, every factor, agent or manager trading or using commerce in this state."[2] In 1779 the tax was increased to two and a half per cent,[3] but in 1780 the tax was abolished.

Pennsylvania, like Maryland, waited until late in her history before trying the faculty tax. The first attempt to levy it was in 1782, when a law was passed bearing a resemblance to that of Maryland passed five years before. It required that "all offices and posts of profit, trades, occupations and professions (excepting ministers and schoolmasters) shall be rated at the discretion of the

[1] American state papers, Finance, vol. I, p. 429.

[2] Maryland laws, 1777, chap. 22, secs. 5, 6.

[3] Maryland laws, 1779, chap. 35, sec. 48.

township, ward or district assessors and two assistant freeholders of the proper township, ward or district, having due regard to the profits arising from them."[1] In 1785 mechanics and manufacturers were added to the exempted class and maximum and minimum limits were fixed for the tax upon each trade or profession. The law went into minute detail and left but little room for the discretion of the assessors.[2] It remained in this form until 1799, when mechanics and manufacturers were again taxed,[3] and finally in 1817 it was extended to ministers and schoolmasters.[4]

THE SOUTHERN COLONIES

Virginia.—But two of the southern colonies had any experience with the faculty tax. At the October session of the Virginia legislature of 1777[5] an act was passed instructing each assessor to assess not only real and personal property but also to require each taxable person to state under oath the amount of "interest received which should become due after the passage of this act on debts bearing interest, and all annuities (except a publick provision for wounded soldiers and their families)." It was further provided that each assessor should "require all persons in his hundred having publick salaries to render an account of the amount thereof and all persons holding offices of profit (except military and sea officers in respect of their employments) and residing in their hundred, to render an account upon oath to the

[1] Laws of Pennsylvania, Dallas, vol. II, p. 8.
[2] American state papers, Finance, I, p. 428.
[3] Laws of Pennsylvania, vol. III, chap. 2081.
[4] Laws of Pennsylvania, vol. VI, chap. 4300, p. 397.
[5] Hennings' Statutes at large, vol. IX, pp. 353–354.

best of their knowledge of the neat annual income of such office." Each individual was required to keep a distinct account of his "neat" income. The act fixed the tax on interest at two shillings on each pound, and that on salaries at ten shillings on each hundred pounds.[1]

Although it was provided that this act should remain in force for seven years, it was found by the next year that it furnished insufficient revenue and the tax rate was changed. The rate on real estate and personal property was raised and at the same time the tax on income was increased to "four shillings for every pound of the amount of the annuities" and "twenty shillings for every hundred pounds of the neat income of all offices of profit."[2] This was to continue in force for six years, but in 1782, when the revenue laws were revised and combined into a single act, the tax upon income was dropped.[3] However, in 1786 it was provided that the clerks of various state and local courts should be subject to a tax equal to one-third their annual income received in the form of fees;[4] but this provision, in turn, remained in force only four years. With its repeal in 1790,[5] Virginia's experience with the faculty tax closed.

South Carolina, like Massachusetts, evolved the income tax directly from a colonial faculty tax, presenting an experience in the taxation of incomes unbroken from colonial times to the present, with the exception of twenty-nine years, 1868–1897. The faculty tax was first levied in 1701, when the law required the inhabitants to be taxed according to their estates, stocks, and abilities or the profit made from any public office or

[1] Hennings' Statutes at large, vol. IX, p. 350.
[2] Hennings' Statutes at large, vol. IX, p. 548.
[3] Hennings' Statutes at large, vol. XI, p. 112.
[4] Hennings' Statutes at large, vol. XII, p. 284.
[5] Hennings' Statutes at large, vol. XIII, p. 114.

employment.[1] Two years later the wording was changed so as to tax the inhabitants on their "estates, goods, merchandise, stocks, abilities, offices and places of profit," of whatever kind or nature.[2] In this form the law continued in force for over fifty years. In 1758 it was again changed so as to require store-keepers as well as practicing physicians and surgeons living in the country to be rated by the assessors in the several parishes where they lived "for their stock and trade and the profits of their professions at the rate of eighteen shillings for every one hundred pounds upon the full value of their profits."[3] Two years later, however, the old law of 1703 with some modifications was reenacted. It levied a tax of "six pence per cent on the profits of all faculties, professions (except the clergy), factorage and handicraft trades throughout the province to be ascertained and rated by the several assessors and collectors according to the best of their knowledge and information."[4] This law was still in force when the first constitution was adopted in 1776.

Such are the facts relative to the faculty tax, and we may now properly ask what they show. It is noteworthy that of the fourteen colonies (including Vermont), twelve employed the tax, and it was looked upon by all as supplementary to the property tax. Four of the colonies employed the tax during the seventeenth century, twelve during the eighteenth, and five or six, after becoming states, continued its use into the nineteenth century.

The tax took various forms in the different colonies, but all agreed in trying to reach either profits or wages

[1] South Carolina statutes at large, Cooper, vol. II, p. 36.
[2] South Carolina statutes at large, Cooper, vol. IV, p. 366.
[3] South Carolina statutes at large, Cooper, vol. IV, p. 58.
[4] South Carolina statutes at large, Cooper, vol. V, p. 129.

or both. A comparative study shows that nine taxed profits as such; seven, professional incomes; five, wages; and four, salaries; while five tried to reach both by placing a tax upon all income derived from trades. In general it may be said that the New England colonies were especially concerned in taxing income from trades; the middle colonies, particularly New York, New Jersey, and Delaware, with the taxation of profits; and the southern colonies with the taxation of incomes from personal services. In fixing the income to be taxed, four of the colonies allowed exemptions.

The essential point in which the faculty tax differed from the later income tax was in the method of assessment. As a rule the faculty tax was an estimated tax, whereas the income tax proper has been, in theory at least, a tax upon the actual income of individuals. The most superficial examination reveals the fact that the faculty tax underwent an important evolution in the colonial period, developing from a vague, indefinite effort to tax personal ability to a definite, well-defined tax directed against income from wages and profits. It constituted, therefore, a fitting basis upon which to build the later income tax.

As to the general administration of the faculty tax in the colonies, it must be admitted that, with the possible exceptions of Massachusetts, Connecticut, Vermont, Pennsylvania, and South Carolina, the tax was levied with considerable laxness. This does not necessarily prove it to have been inherently bad, for it must be remembered that the colonists had an unusual aversion to tax-paying, and employed other means of raising revenue whenever possible.[1]

[1] See R. T. Ely, Taxation in American states and cities, part II, chaps. 1 and 2.

CHAPTER II

THE INCOME TAX IN THE NEW ENGLAND STATES

Massachusetts, since becoming a state, has followed a comparatively settled policy with reference to the income tax. The law in force in 1780, when the first state constitution was adopted, providing for the taxation of incomes from professions, faculties, handicrafts, trades, and employments and that received in the form of profits, remained unchanged until 1821. At that time the words "faculty" and "profits" were omitted,[1] but this, it seems, did not affect the scope of the tax. In 1836 the law was again modified. The word "handicraft" was dropped and income from annuities the capital of which was taxed in the state was exempted from taxation.[2] Before the law was again changed the subject of the income tax was brought before the courts. In 1845 clerks in various postoffices in the state attempted to escape payment of the tax on the ground that they were appointed, to all intents and purposes, by the postmaster-general, but the supreme court of the state declared against them.[3] During the same year an attempt was made to tax certain forms of income at their source. Had it been successful it might have had a far-reaching effect. The city of Boston ordered the Boston Water Power Company to pay a tax on so much of its income as was each year divided among the individual stockholders. The company refused and the case was carried up to the supreme court, which rendered a decision in favor of the company.[4]

[1] Laws of 1821, chap. 107, sec. 2.

[2] Revised statutes, 1836, chap. 7, sec. 4.

[3] Nathaniel Melcher *vs.* city of Boston, 9 Metcalf, 73.

[4] Boston Water Power Co. *vs.* city of Boston, 9 Metcalf, 199.

In 1849 the legislature so changed the law as to allow the exemption of a fixed sum. It was provided that only that part of the income from any profession, trade, or employment in excess of $600 per annum should be construed as personal property for the purpose of taxation, and that no income should be taxed which was derived from property or estate at the time subject to taxation.[1] This act was not in operation long before it, too, was carried before the courts. In 1856 the supreme court held that the income received by inhabitants of the state from stocks of foreign corporations held by trustees for such individuals was not subject to the income tax.[2] This furnished a means of escape to those willing to invest in corporate stock. The legislature made no further changes in the law until 1866, when the exemption was increased from $600 to $1000.[3] In 1870 a decision of considerable significance was handed down. With the hope that income derived from a business enterprise would be regarded as "derived from property subject to taxation," and therefore exempt from the tax, a case involving that point was carried to the supreme court, which, however, declared that incomes from trade must be regarded as derived from skill and therefore not "derived from property subject to taxation within the meaning of the general statute." In consequence the profits of a merchant were taxable, though at the same time he was taxed on his stock in trade.[4]

This decision was regarded by many as unjust, and

[1] Laws of 1849, chap. 149.

[2] Susan Dorr *vs.* city of Boston, 6 Gray, 131.

[3] Laws of 1866, chap. 48.

[4] Wilcox *vs.* county commissioners of Middlesex, 103 Massachusetts, 544.

was the cause of active opposition to the law. In 1871 a bill was introduced into the lower house providing for the repeal of the tax. This bill failed to pass,[1] and a second with the same object met a like fate.[2] A third, which attempted a compromise by raising the exemption to two thousand dollars, received similar treatment.[3] When the legislature met in 1873 another determined and interesting effort was made. This time the opponents wisely tried the upper house of the legislature. Although in January of 1873 they succeeded in getting the senate committee on the judiciary to report favorably a bill providing for the abolition of the income tax,[4] it did not find smooth sailing even in the senate. Two weeks later a suggested compromise raising the exemption so that large incomes could not entirely escape passed unheeded. After a week of exciting debate the bill was passed by a vote of twenty-three to nine.[5] The discussion was taken up by the papers. The *Boston Daily Advertiser* for February 11 editorially expressed the hope that the unjust imposition would be abolished, and presented the common arguments against the tax. The editorial declared that the law was differently interpreted and administered in different places, that it was invariably unjust, resulting in double taxation, and closed with the significant question, "Where in the history of the world is a more unjust system of taxation to be found?"[6]

[1] Legislative documents, House, 1871, bill No. 224.

[2] Legislative documents, House, 1871, bill No. 292.

[3] Legislative documents, House, 1871, bill No. 284.

[4] *Boston Daily Advertiser*, February 1, 1873; also *Boston Journal*, February 1, 1873.

[5] *Boston Daily Advertiser*, February 14, 1873.

[6] The full text of the editorial is as follows: "There is some prospect, we are glad to say, that the unjust imposition will be abolished. Much of the discussion in the Senate last week turned on the gross

Two days after the bill passed the senate (February 15) it was received by the lower house, where [1] it finally died in committee. A few weeks later (May 5) the

inequalities growing out of the different modes of assessing and neglecting to assess the tax in different places. The difficulty of establishing any uniform principle for the assessment of this tax is certainly a very strong objection to it. Another not less so is its invariable injustice. Our law enumerates among the subjects of taxation "so much of the income from a profession, trade or employment" as exceeds $1,000 a year. The incomes which have been assessed under this law are of two kinds—one, the earnings of capital employed in business (whether this is a true construction of the statute is very doubtful), the other, earnings of the personal exertions of professional men and others involving the use of little or no capital. Many persons spend all their earnings of a given year by the time the year is ended in supporting themselves and families; most persons spend the greater portion of their earnings in the same period, and comparatively few save more of their earnings than they spend. It necessarily happens that before the day for assessing incomes arrives most of those rated have used up their incomes for family expenses or otherwise. If a fair proportion of every man's income could, by any device, be withdrawn from his possession just as it enters his pocket, it would be almost as agreeable if not a fair mode of raising a revenue. But to call on a person who has nothing left as the result of a year's labor, to give a portion of his non-existent income to the public as if it were a reality, reminds one of the old system of imprisoning luckless debtors who had no property, which was formerly one of the glories of the law.

"Many successful men, however, save more or less of their earnings which on the first of May appear either as cash on hand, real estate, shares in corporations, merchandise, money lent, or other subjects of taxation. Then these unfortunates are taxed once for their incomes and again for the investments of the same. This legerdemain of assessing the same thing twice over, by giving it two names, would be a good reason for Turkey. If A earns $6,000 a year and invest $5,000 of it in a house, which he holds at the year's end, or has the money on hand at that time, he is assessed $5,000 on his income and another $5,000 on his house or on his cash, while B, who has a legacy of the same amount and buys a house with it is taxed only for the house. Where in the history of the world is a more unjust system of taxation to be found? If a man has spent his income he is taxed, though he has nothing left to pay; if he keeps it in cash or investments then he is taxed twice the amount of it. But in either case he is taxed for something which he has not got."

[1] *Boston Daily Advertiser*, February 17, 1873; *Boston Journal*, February 15, 1873.

judiciary committee favorably reported a compromise bill providing for the taxation of incomes as before, but increasing the exemption from one thousand to one thousand five hundred dollars.[1] This passed the lower house, but received harsh treatment in the senate. The judiciary committee then recommended that the exemption be raised from fifteen hundred to twenty-five hundred dollars, and a member of the senate (Mr. Bancroft of Worcester) proposed that all incomes invested during the year in property itself subject to taxation in the state be exempt.[2] Both the amendments were adopted and the bill in this form passed the senate. Neither house would recede from its position.[3] Finally a committee of conference agreed to place the exemption at two thousand dollars and to strike out the senate amendment exempting incomes invested in taxable property during the year.[4] The bill as thus modified, providing that "income from any profession, trade or employment shall not be construed to be personal estate for the purpose of taxation except such portion as shall exceed the sum of two thousand dollars per annum; provided, however, that no income shall be taxed which is derived from any property or estate which is the subject of taxation,"[5] became a law. In 1874 an unsuccessful attempt was made to lower the exemption to fifteen hundred dollars.[6] No change has since been made in the law. Although the opposition failed to secure the repeal of the tax, they secured such an increase of the exemption as to make the law practically

[1] *Boston Daily Advertiser*, May 6, 1873.
[2] *Boston Daily Advertiser*, May 21, 1873.
[3] *Boston Daily Advertiser*, May 28, 1873.
[4] *Boston Daily Advertiser*, June 7, 1873.
[5] Laws of Massachusetts, 1873, chap. 354.
[6] *Boston Daily Advertiser*, April 27, 1874.

inoperative, the income tax now playing but an unimportant part in the tax system of the state.

While there may be some ground for criticising the action of those who opposed the law, it must be admitted that their action was not without justification, for aside from their antagonism to the principle of the law, its administration has always given rise to much dissatisfaction. The state has adopted the plan of designating by general legislative act the objects of taxation and of stating rules to be followed in the levy of the taxes. Then from year to year by special act she authorizes the raising of a certain sum for state purposes, apportioning the amount among the various local units in proportion to their assessed valuation. The assessors in the local units then assess the individual tax-payers according to the rules prescribed. The general law requires that the listing be done by the declaration of the tax-payer, and provides that the assessor may require a person suspected of making false returns to swear to the correctness of his list. It will be noticed, therefore, that the income tax strictly speaking is levied by the cities and towns.

Herein lies the principal defect of the law and the point against which the opposition has been chiefly directed. As a consequence of each local board of assessors being practically a court in itself, making its own interpretation and its own application of the law, the greatest variety of administration prevails. The majority of the towns and cities entirely ignore the tax.[1]

[1] For example, at the request of the special tax commission of 1875 the tax commissioner made up the following statement from the copies of the valuation lists for 1873 on file in his office:

Number of towns giving incomes	41
Number of towns giving incomes and personal property	5
Number of towns giving salaries	3
Number of towns giving excess of salaries	1
Number of towns giving no income	273
Number of towns not heard from	17
Total	340

(Report of the commissioners relating to taxation, 1875.)

This is notably true of those towns about Boston that wish to induce the residence of business and salaried men. Further, those towns that enforce the law by no means place the same construction upon it. Some levy the tax only on incomes derived from salaries and the learned professions.[1] Others exempt that portion of the income saved and invested in property subject to taxation. This has been the practice in Boston.[2] Others, again, levy the tax upon all incomes irrespective of their source or of the use made of them.[3] Such has been the application of the law in Cambridge. Still others, treating income from business as partly interest on capital, and therefore already taxed, and as partly the result of skill and labor in management, allow an amount equal to six per cent of the capital stock for interest and levy the tax on only the excess.[4] The methods of determining the amount of income likewise have tended to bring the law into disfavor. The law requires the tax-payer to determine carefully and report to the assessor the amount of his annual income; but often the assessor simply makes a rough estimate.[5] Since an income may be derived from sources already taxed or from those not taxable, or from trades and professions or from taxable securities, all subject to the tax at very different

[1] "In one town having 14,000 inhabitants, a valuation of fully $8,400,000, and containing many prosperous merchants and manufacturers, only thirteen persons, they being cashiers, lawyers, clergymen, physicians, a mill-agent, and an actuary, were assessed for income in 1874 on a total valuation of $15,121." (Report of commmissioners relating to taxation, 1875.)

[2] See the address of Alanson W. Beard, of Boston, in the report of the commissioners relating to taxation, 1875.

[3] See the address of Dr. A. Z. Brown, of Cambridge, in the report of the commissioners relating to taxation, 1875.

[4] Report of commission of taxation, 1897.

[5] Report of commission of taxation, 1897, p. 57.

rates, the assessor, relying as he must on his general knowledge and judgment, frequently makes incorrect and unjust estimates.

Many efforts have been made to correct these differences in the interpretation and administration of the law. In 1873, as we have seen, the law was retained only by a compromise. In 1875 the special tax commission treated the subject at considerable length. The commissioners admitted that no one tax in the system revealed so great a lack of uniformity in its construction and enforcement and so wide a difference of opinion as to its worth as did the income tax. While every tax act from colonial time to the present day[1] had plainly and explicitly required the taxation of income, income was taxed in very few places in the state, and the revenue derived from its assessment, either by the municipalities or the state, was inconsiderable. Construed differently even in adjoining places, enforced here and allowed to remain a dead letter there, the law worked hardship, inequality, and injustice. "But," they continued, "however unpopular an income tax is —and we admit it is extremely so—and however irregular and inefficient its administration—all of which in the actual fact it would be difficult to exaggerate—it seems that no one can clearly understand this tax without admitting both its economy and its justice." [2]

In the hope that a more just and equitable administration might be secured the commission made the following important recommendations: First, that the exemption, which should never exceed the sum reasonably necessary for subsistence, be lowered from $2000 to

[1] This statement, made in 1875, may be repeated with equal truth at the present time.

[2] Report of the tax commission of 1875, p. 51.

$1000. Second, that no deductions be allowed for income invested during the year. Third, that the law be changed so as to allow a deduction from the gross income of a sum equal to six per cent of the assessed value of the property employed in the business from which the income was derived. Fourth, that a central supervising department of taxes be established with agents in the several municipalities,[1] to insure the equal enforcement of the tax throughout the state, upon a uniform construction. Unfortunately these recommendations were not heeded; and the law remained in its old form, variously interpreted and administered.

Naturally the special tax commission of 1897, after twenty-two years' additional experience, gave the subject serious consideration.[2] The commissioners first considered the advisability of levying the tax upon income derived from securities, then on income of all sorts. After considering the advantages and disadvantages of such taxes, they recommended that the existing income tax be repealed. While they recognized the justice and numerous advantages of such a tax, the commissioners declared that, "In the present situation of this country, with our political traditions and business habits, an income tax would prove exceedingly difficult to administer with certainty and with equity of treatment as between different tax-payers." Since the English system of taxation at the source could not be employed, the method of declaration by the tax-payer was the only one possible; and this, the commissioners were convinced, led to concealment, equivocation, false statement, full payment by the honest, and evasion by the dishonest. Holding further that the action against the late national

[1] Report of tax commission of 1875, p. 55.

[2] Report of commission of taxation, 1897, p. 85 *et seq.*

income tax proved that it was not popular among the great mass of citizens, they concluded that an income tax which must rest on personal declaration would be deprived of one of its most important supports—an effective public opinion convinced of its fairness and desirability.

The commission, however, recognizing that unless other provision were made, the repeal of the income tax would allow certain individuals to escape taxation, proposed that a tax on presumable or estimated income, as indicated by expenditure for dwelling accommodation, be substituted. This proposed tax was to be ten per cent upon house rent in excess of four hundred dollars a year, the tax to be levied upon the occupier, whether he were the owner or not. It was admitted that as compared with an ideally arranged and ideally administered income tax this form of tax was not to be commended; but when considered with reference to expediency it was believed to be the more desirable. These recommendations were not unanimous, and have thus far passed unheeded.

Although the law of 1873 still remains upon the statute books, the indications are that it is little more than a dead letter. However, some improvement in the administration of the tax has taken place since the recent appointment of a deputy tax commissioner whose duty it is to visit each city and town in the state with a view of obtaining uniformity in taxation. William Trefry, the present state tax commissioner, says: "The proportion of assessed incomes is increasing, and as the assessors are educated, the proportion is likely to increase still further." "But," he continues, "the difficulty of getting returns and data would always tend to make this tax difficult of enforcement and the amount of revenue

could not be counted on with certainty. The machinery of the Massachusetts tax laws is not adapted to the enforcement of an income tax, and until it is, this income tax can never attain a prominent place in our system."

As to the amount of revenue derived from the income tax in Massachusetts, it is quite impossible to speak with exactness. That it is comparatively insignificant is admitted by its advocates as well as by its opponents. There is no report published showing the aggregate amount of revenue received by the state from this source. However, one special report recently made bears out the above conclusions, both as to the amount of the tax and as to the laxness of its administration. The tax commission of 1897 asked all the cities of the state to report their assessment of personal property. Of the thirty-two cities in the state, all but Boston and Somerville reported. From these reports it appears that the assessed valuation of the personal property in the thirty cities for the year 1895 was $194,783,718, but of the total sum only $3,880,220 was rated as income. Of the thirty cities, nine reported no income whatever. Of the remaining, Medford and Springfield returned nearly one-half the total amount assessed. Only eight cities in the state reported incomes aggregating $100,000 or more.[1] The experience of the counties in the state has been quite similar to that of the cities. In 1895 personal property was assessed at $147,800,703, of which only $1,529,705 was reported as income. Of the fourteen counties, Dukes and Nantucket reported no income at all; while of the remaining, Middlesex returned more than the other eleven combined. Only three of the

[1] Report of tax commission of 1897, Appendix II, p. 268.

counties returned incomes aggregating $100,000 or more.[1]

Beyond question the burden of the income tax in Massachusetts has been unjustly distributed among those expected to bear it. But whether this is due to inherent defects of the tax itself or to lax administration we shall leave for later consideration.

Massachusetts is the only one of the New England states that has levied an income tax in the strict sense of the term. In New Hamshire the faculty tax, as we have seen, disappeared before the close of the eighteenth century; and we search the session laws in vain to find either a revival of it or the introduction of any form of the income tax proper. Maine has never made use of the tax in any form. Vermont, as has been shown, although employing the faculty tax until the middle of the present century, appears never to have given it much attention. It always remained in a crude form and never became more than a "faculty" tax; that is, a tax upon estimated or assumed income. Since its final repeal in 1850, nothing has been done in the way of directly taxing the incomes of individuals. The history of Connecticut has been quite similar to that of Vermont, although the Connecticut law from 1771 to the repeal of the "faculty" tax in 1819 was more efficient and more satisfactory than the Vermont law; while, even to the last, it required the tax to be levied according to the estimate of the assessor, it at the same time provided a special means by which appeals might be made by such individuals as were over-assessed. But the tax never took on a modern form, and since 1819 Connecticut never has employed an income tax. Rhode Island, like New

[1] Report of tax commission of 1897, Appendix II, pp. 262–3. For a full statement of the receipts from the tax see Appendix A.

Hampshire, discontinued the use of the faculty tax before 1800, but about the middle of the last century a tax of forty per cent was levied upon the annual income in excess of $400 received by clerks of the supreme court and of the court of common pleas, excepting the clerk of the supreme court and the court of common pleas in the county of Providence.[1] This act was in operation only a short time, and its repeal closed Rhode Island's experience with this form of taxation.

New England has rendered us a peculiarly desirable service by clearly presenting, in the experience of Massachusetts, the steps in the evolution of the income tax. The produce tax of early times gave birth to the faculty tax, which slowly developed into the modern income tax.

[1] Revised statutes of 1857, title 3, chap. 12, sec. 9.

CHAPTER III

THE INCOME TAX IN THE MIDDLE STATES

New York and New Jersey never have employed the income tax; Pennsylvania, Maryland, and Delaware have levied the tax, but only for short periods. In Pennsylvania it was levied from 1841 to 1871; in Maryland from 1842 to 1849 or 1850; in Delaware from 1869 to 1871. Each of the three states attempted to reach wages and profits, and Delaware included interest.

The *Pennsylvania* faculty tax of 1817, levied upon incomes from offices and posts of profit, trades, occupations, and professions, appears soon to have fallen into disuse. In 1840, however, in order to meet the large state debt, attention was once more directed to these sources. A tax of one per cent was levied upon all salaries and emoluments of office and a tax of one mill upon each dollar received from every trade, occupation, or profession not already taxed by the commonwealth.[1] In 1841 the tax upon salaries and emoluments of office was increased to two per cent and that upon income from trades, occupations, or professions to one per cent, with a general exemption of $200 on all incomes.[2] In 1844 the language of the law was modified, without, however, any change in the rates.[3] A decade later it was provided that when the tax was levied for school purposes upon trades, professions, and occupations it should in no case be less than fifty cents.[4] In 1857 this minimum was raised to one dollar.[5] Much opposition to the

[1] Laws of 1840, act No. 232, sec. 2.
[2] Laws of 1841, act No. 117, sec. 9.
[3] Laws of 1844, No. 318, sec. 24.
[4] Laws of 1854, No. 610, sec. 30.
[5] Laws of 1857, No. 667, sec. 2.

tax arose, it being argued that it checked business development. However, nothing was done in the legislature until 1871, when a bill was introduced into the lower house providing for the repeal of the tax. After an unsuccessful attempt to pass it under a suspension of the rules,[1] the bill finally became a law.[2] It repealed not only the tax on trades, occupations, and professions, but also that on salaries and emoluments of office. This closed the experience of Pennsylvania with the income tax.

The law was loosely administered and the amount of revenue derived from the tax appears to have been very small. In 1843 the governor stated that in a total tax of $910,000 the amount received from offices was only $1386.[3] Since the financial reports do not designate the income tax as a separate source of revenue it is impossible to state the amount of tax annually received.

There is a further important system of taxation employed in Pennsylvania which, while in name a corporation tax, is in reality an income tax. In 1835[4] a graduated tax was placed upon the dividends of banks. This law was extended in scope[5] until in the sixties it became to all intents and purposes a tax upon the dividends or net income of all corporations. By 1864 the tax had ceased to be graduated and was levied simply as a proportional tax of three per cent upon the "annual net earnings or income."[6] The essential

[1] The *Philadelphia Inquirer*, February 18, 1871.

[2] Laws of 1871, No. 261.

[3] Governor's message of January 1, 1844.

[4] Digest of the laws of Pennsylvania, Parke and Johnson, 1836, vol. I, p. 49.

[5] Laws of 1849, No. 147, sec. 7.

[6] Laws of 1864, No. 210, sec. 2.

features of this corporation tax are that it falls on the incomes of shareholders, that it saves cost of collection, being paid by the companies directly into the state treasury, that it falls on those best able to bear it, and that it ensures taxation of non-residents.[1] This corporation tax seems to meet with general approval. About 1850 the tax yielded something more than $234,000;[2] it now yields about one-half the total revenue of the state. This is one of the best illustrations in the United States of the English method of taxing income at its source.

In *Maryland* the faculty tax, as we have seen, was withdrawn in 1780, as soon as the pressure of war was over. In 1824, however, the clerks of various state, county, and city courts and registers in chancery and registers of wills were taxed twenty-five per cent on their annual income in excess of $1500 received in the form of fees.[3] This law remained in operation only three years.[4] Again in 1836, in order to strengthen its securities, the state declared by legislative act that, in case it should become necessary at any time for the support of the government or to sustain the public credit, a tax should be laid upon personal and real property and upon "all incomes derived from shares of every incorporated institution, real, personal, or mixed which escapes taxation under existing laws."[5]

About 1840 the enormous state debt, created by outlays for public improvements, showed the necessity of reaching all sources of revenue. The following year

[1] T. K. Worthington, Historical sketch of the finances of Pennsylvania, p. 91.

[2] Report of the state treasurer, November 29, 1851, p. 12.

[3] Laws of 1823–4, chap. 146.

[4] Laws of 1826–7, chap. 246.

[5] Laws of 1835–6, chap. 395, sec. 15.

the legislature passed the first general assessment law in twenty-eight years.[1] In 1842 a tax of two and one-half per cent was levied upon salaries and emoluments and all incomes and profits from professions, faculties, and employments. Incomes of less than $500, incomes derived from taxed property, and the salaries of judges and of clergymen were exempt.[2] At the same time a graduated tax was placed upon all income arising from ground rents, with a rate so fixed that the tax was equivalent to two and a half per cent upon a ten per cent annuity from the principal.[3] In time this law was repealed and the tax on ground rents made the same as on other incomes, but without the usual five hundred dollar exemption.

Salaries and professional incomes were assessed by special assessors appointed in the counties by the county commissioners and levy courts and in the city of Baltimore by the mayor and city council; all other incomes were assessed by the assessors of other property. The assessors were required to take a special oath that they would rate all offices, posts of profit, professions, and occupations at what they believed to be the yearly salaries, incomes, emoluments, or profits arising therefrom. But if an individual swore before the assessor that his income did not exceed a certain sum, it was required that he be assessed at that sum. Appeal was allowed in case this right was denied. In order to enable the assessors to determine the exact income of individuals, the law allowed them to demand a full and complete statement as to the amount of his income from each person under oath. In case he failed or refused to

[1] Report of Maryland tax commission of 1888, p. 161.

[2] Laws of 1841–2, chap. 325.

[3] Laws of 1841–2, chap. 329.

comply he was subject to a fine not to exceed one thousand dollars. Special officers were appointed to collect the tax. The tax on the salaries of state officials was retained in the state treasury at the time the salaries were paid, while the tax upon salaries paid by private individuals, partnerships, or corporations was retained by the employer and paid to the collector under a penalty of double the amount of the tax.[1]

The law having operated unsatisfactorily, in March, 1844, a supplementary act was passed providing that if the proper officials failed to appoint assessors or if the assessors failed to qualify, the governor should appoint substitutes, and if the latter failed or refused to qualify, he should appoint others and continue to do so "until duly qualified collectors of the said tax are procured through the state."[2] It was further provided that, since the tax had been levied in some counties and not in others, the proper officials should levy the tax in 1844 for 1843 and for 1844, and that the tax for the two years should be collected half in December and half in June. The act further provided that if any person should swear that his actual annual income did not exceed three hundred dollars, he should be exempt.[3]

We must not conclude, however, that the income tax was the only one laxly administered. The governor in his message at the beginning of 1844 declared that there was "a deplorable remissness in the execution of the tax laws; some of the counties have utterly, and others, partially, disregarded them." He said further that the revenues could "not be materially increased by the income tax, heretofore partially collected." In 1849

[1] Laws of 1841–42, chap. 325, secs. 3–13.

[2] Laws of 1843, chap. 307, sec. 1.

[3] Laws of 1843, chap. 307, secs. 8, 10.

only a little over one-half of the general state tax of about $1,500,000 was collected;[1] no income tax at all appears to have been collected.[2]

In spite of the efforts put forth the income tax continued to be poorly administered, and in 1850 the tax was to all intents and purposes repealed by a special act providing that henceforth the collectors should not be held liable for the recovery of the tax if they proved it not to have been collected.[3] In one or two of the counties an effort was made to enforce the law, but soon it was abandoned and the act repealed "because of its inquisitorial character, its impertinent scrutiny into the affairs of private life, and of other difficulties which it had to encounter, and the frauds and imposition it caused, and above all its utter failure to produce a sufficient sum."[4] Since 1850 no attempt has been made to levy an income tax in Maryland. The recommendation of Professor R. T. Ely, a member of the Maryland tax commission of 1888, that the state provide for an income tax on all incomes in excess of six hundred dollars a year[5] has passed unheeded; and at the present time there are no indications that such a step will be taken in the near future.

Delaware, after the repeal of the faculty tax at the beginning of the present century, did nothing until 1869 in the way of attempting to reach income. In that year a tax of two per cent was placed upon the gross receipts of all private bankers, brokers, and real estate agents received in the form of commissions,

[1] Treasurer's report, 1849, p. 27.

[2] Treasurer's report, 1849.

[3] Laws of 1849, chap. 294.

[4] Debates and proceedings of Maryland reform convention to revise the state constitution, vol. 3, p. 227.

[5] Report of the Maryland tax commission, 1888, pp. 175–183.

profits, brokerage, or other compensation for business transacted, and upon the income from "salaries or fees" received by lawyers, physicians, and all state and county officers.[1] Each individual subject to the tax was required to return on the first of each January to the county assessor a verified statement of his income. After being in operation only two years this law was replaced by a license tax,[2] and no successful effort has since been made by the state to revive the income tax.

In concluding our consideration of the middle states we may note, first, that none of the states gave the income tax a very important place in their financial system, and that two did not employ it at all; second, that those states employing the tax taxed income from personal services and usually profits, Delaware also taxing interest and Maryland rent; finally, that marked indifference to the administration of the tax was everywhere manifested.

[1] Laws of 1869, chap. 390, sec. 10.

[2] Laws of 1871, chap. 16.

CHAPTER IV

THE INCOME TAX IN VIRGINIA

With the exception of Mississippi, every state south of the Potomac and Ohio rivers and east of the Mississippi has tried the income tax. Some have limited its scope, others have confined its use to a limited period of time; but altogether the southern states have given it the widest usage. In the extent of their experience with the tax, Virginia stands first, North Carolina second, Alabama third, and South Carolina fourth.

In Virginia nearly every legislature, during the sixty years since the income tax was introduced, has tampered with it; the scope of the tax has been changed, the rate modified, and quite generally it has been confused with other forms of taxation. The history of the tax is the history of a confused mass of legislation.

Previous to 1843 the principal sources of state revenue in Virginia were the taxes upon lands, houses and lots, and certain enumerated forms of personal property, a poll tax, and an extensive license tax. In 1843 the tax upon incomes was added. It supplemented rather than superseded the existing forms of taxation, the cause of its introduction apparently having been a desire to attain greater justice in the distribution of the increasing burdens of taxation. The act was not general; it affected only income derived from particular sources. Wages and interest were quite generally taxed, profits were reached to a limited extent, but in only one or two instances was rent really affected.

The law imposed a tax of one per cent upon the yearly money income in excess of four hundred dollars

accruing to any individual for services rendered to the commonwealth [1] or to any corporation, joint stock company, partnership, or individual [2] or received in the form of fees from "any office, calling or profession." [3] Physicians, surgeons, dentists, and lawyers might, in lieu of the income tax, pay an annual license tax, fixed at $10 except for lawyers practicing in the court of appeals of the state, who were obliged to pay $20.[4] As a rule the license tax was paid.

Interest was reached by placing a tax of two and one-half per cent upon the amount of income received by individuals from money loaned and from bonds, notes, and securities the total value of which exceeded $100.[5] This exemption, however, does not appear to have extended to the interest derived from bonds or certificates of debt issued by any of the states (Virginia included), by any foreign government, or by certain corporations chartered by the commonwealth of Virginia.[6] Furthermore, each person whose income from interest was taxed was permitted to deduct from his assessment the interest on all sums owed by him.[7]

The tax scarcely affected profits and rents, appearing as a rate of one and one-half per cent upon the annual income in excess of $100 received from toll-bridges and ferries.[8] The reason that no serious attempt was made

[1] During 1843 the governor and judges of the court of appeals and of the general court were exempted from this tax, but in 1844 this exemption was not mentioned. (Laws of 1842–3, chap. 2, sec. 5.)

[2] Laws of Virginia, 1842–3, chap. 1, sec. 4.

[3] Laws of Virginia, 1842–3, chap. 1, sec. 5.

[4] Laws of Virginia, 1842–3, chap. 1, sec. 5.

[5] Laws of Virginia, 1842–3, chap. 1, sec. 2.

[6] Laws of Virginia, 1842–3, chap. 2, sec. 4.

[7] Laws of Virginia, 1842–3, chap. 1, sec. 2.

[8] Laws of Virginia, 1842–3, chap. 1, sec. 6.

to reach profits and rents was that profits were reached in a rough way by an extensive license system and rent was reached by means of a general land tax.

With but two exceptions no special provision was made for the administration of the tax. Each individual was required to return his income at the same time and in the same way that he listed his other property with the commissioner.[1] It was further provided that the amount levied upon the salaries of state officials should be deducted by the auditor of public accounts when the salaries became due.[2]

By the law of 1844 physicians, surgeons, dentists, and lawyers were required to pay the license tax. However, their income fixed the amount of the license, the law requiring a tax of $5 if the income exceeded $400 and was less than $1000, and a tax of $10 if the income exceeded $1000. However, attorneys practicing in the court of appeals were obliged to pay a tax of $10 if their annual income was less than $2000; if it exceeded $2000 the sum required was $20. It was expressly provided that no one subject to the above license tax should be required to pay any tax upon income.[3] This act of 1844 for the first time exempted ministers of the gospel from the payment of the income tax. The act caused little change in the tax upon interest, merely lowering the rate from two and one-half to two per cent and changing the exemption from $100 of investment to six dollars income, without deduction for interest owed.[4] The method of reaching physicians, surgeons, dentists, and lawyers employed in the law of 1844 continued until 1847, when the amount of

[1] Laws of Virginia, 1842–3, chap. 2, sec. 5.
[2] Laws of Virginia, 1842–3, chap. 1, sec. 7.
[3] Laws of Virginia, 1843–4, chap. 1.
[4] Laws of Virginia, 1843–4, chap. 1, sec. 5.

income received ceased to be taken into consideration and an annual license tax of $5 was imposed except upon lawyers practicing in the court of appeals, who paid $10.[1]

For nearly a decade after 1844 no further change worthy of mention was made in the income tax[2] except in 1849, when the exemption was extended to income derived from bonds of certain corporations.[3] In 1852, however, the law underwent a number of important changes; a progressive rate was introduced, the tax upon interest was made less general, and the desire to make profits bear a greater part of the burdens began to manifest itself. The progressive rate, however, never received general application, being applied only to incomes derived from personal services. The law provided that the annual income received by an individual in the form of either salary or fees for the discharge of any office or employment in the service of the state, of any corporation created by it, or of any company, firm, or person should be subject to the following rates of taxation: one-fourth of one per cent when the annual income exceeded $100 and such excess was not more than $250; one-half of one per cent when such excess was more than $250 and less than $500; three-fourths of one per cent when such excess was more than $500 and less than $1000; and one per cent when such excess was more than $1000.[4]

Physicians, surgeons, and dentists, who for some time had been required to pay only a license tax, were once more made subject to the income tax. Besides demand-

[1] Laws of Virginia, 1846–7, chap. 1, sec. 5.

[2] See Laws of Virginia, 1844–5, chap. 1; 1845–6, chap. 1; 1846–7, chap. 1; 1847–8, chap. 1; 1848–9, chap. 1.

[3] Laws of Virginia, 1848–9, chap. 1, sec. 1.

[4] Laws of Virginia, 1852, chap. 17, sec. 2.

ing the usual five dollar license tax, the law provided that if their professional income received during the year exceeded $400 and the excess was less than $600, a tax of one-half of one per cent should be paid upon such excess; if the excess was more than $600 and less than $1000 the rate was increased to three-fourths of one per cent; and if the excess exceeded $1000 the rate was made one per cent.[1] It was further provided, however, that no physician, surgeon, or dentist should be subject to an annual income tax of more than $15. The tax was also extended to a class not previously affected; daguerrean artists, practicing their profession within the state, were now required to pay, besides their annual license tax, a tax of one and one-half per cent upon their annual income in excess of $500.[2]

The exemption of certain classes of individuals from the payment of the tax upon salaries or wages was now considerably extended. Formerly only ministers of the gospel, certain state judges, and the governor had been exempt; by this act all persons employed by fire associations and all laborers engaged in "mechanic art, trade, handicraft or manufacture" were exempted.[3]

The tax upon interest, like that upon wages, was made less general in its application. It was now restricted to interest received from bonds of foreign countries, of other states, and of such public corporations as were chartered by the states. The rate was increased to three per cent, but the exemption remained at $6. It is noteworthy that the law for the first time expressly provided that the tax would be imposed even though the income was "converted into principal so as to be-

[1] Laws of Virginia, 1852, chap. 17, sec. 13.
[2] Laws of Virginia, 1852, chap. 17, sec. 14.
[3] Laws of Virginia, 1852, chap. 17, sec. 2.

come an interest-bearing subject or was otherwise applied." The rate upon the annual income from toll-bridges and ferries in excess of $100 was also increased to three per cent.

Another fact deserving special mention is the growing tendency to shift more and more of the burden of taxation upon profits. The system, adopted early in the century,[1] of varying the license tax according to the rental value of the establishment occupied by the business had grown in public favor until, by the act of this year, it was quite extensively applied. Hotels were required to pay a license tax of $30 and a tax of ten per cent upon their yearly rental value in excess of $200; private boarding houses, a license tax of $5 and seven and one-half per cent on their yearly rental value in excess of $50; cook shops or eating houses, a license tax of $10 and seven and one-half per cent on their yearly rental value in excess of $100; manufacturers of porter and ale, $20 license and seven and one-half per cent of the annual rental value of their establishments;[2] merchants selling provisions or agricultural commodities, in addition to their license, one per cent of the commissions and profits of their business.[3] The most significant changes in the law of 1853 were the repeal of the $6 exemption in the case of income received in the form of interest and of the $100 exemption in the case of income from toll-bridges and ferries, the raising of the exemption in the case of salaries to $200,[4] and the increase of the tax upon interest to three and one-third per cent.[5]

[1] Laws of Virginia, 1806, chap. 7, sec. 1.
[2] Laws of Virginia, 1852, chap. 17, sec. 5.
[3] Laws of Virginia, 1852, chap. 17, sec. 7.
[4] Laws of Virginia, 1852–3, chap. 7, sec. 9.
[5] Laws of Virginia, 1852–3, chap. 8, sec. 1.

With the law of 1856 modifications once more began. The progressive tax was continued on incomes received in the form of salaries or fees but at a doubled rate: one-half of one per cent when the income exceeded $100 and the excess was not more than $250; one per cent when the excess was between $250 and $500; one and one-half per cent if the excess was between $500 and $1000; two per cent if the excess was more than $1000.[1] The progressive rate formerly applied to the income of physicians, surgeons, and dentists was discontinued; and they, together with lawyers, were required to pay, besides a license tax, simply a tax of one-half of one per cent upon their annual income in excess of $400.[2] The tax upon the income of daguerrean artists continued without change. The apparent desire of the framers of this act to make the tax upon income from personal services universal in its application led to the insertion of a provision requiring commission merchants, tobacco auctioneers, and ship brokers to pay, besides their usual license tax, a tax of two per cent upon their annual income.[3] The taxation of incomes derived from interest and from toll-bridges and ferries underwent no change except a doubling of the rate of the tax. The attempt to shift a greater portion of the burden of taxation upon profits continued, the tax upon houses of public and private entertainment, cook shops, and liquor dealers being increased in amount.

The law of 1856 remained unchanged in its essential features until the opening of the Civil War. In 1861 the progressive rate which had been levied upon salaries and fees since 1852 was repealed and the propor-

[1] Laws of Virginia, 1855–6, chap. 9, sec. 6.
[2] Laws of Virginia, 1855–6, chap. 9, sec. 28.
[3] Laws of Virginia, 1855–6, chap. 9, sec. 17.

tional rate previously employed reintroduced. The rate was now fixed at one per cent on the amount in excess of $500,[1] and only ministers were exempt from the tax. Except the introduction of a one per cent tax upon the annual income of slave traders, no further change worthy of note took place.

By 1862 the more serious effects of the war began to make their appearance and the tax rates were quite generally increased. The rate upon salaries and fees was raised to one and one-half per cent,[2] that upon interest from bonds and upon the income derived from toll-bridges and ferries to ten per cent.[3] The combined license and income tax was also increased. The general scope of the tax remained about as before, the only change being a provision that all property the income from which was subject to taxation should itself be exempt from taxation.[4]

In 1863 the increased expenses of the war led the legislature both to extend the scope of the tax and to increase the rate. Salaries and fees were taxed two and one-half per cent on the amount in excess of $500,[5] and the rate upon interest and upon income from toll-bridges and ferries was increased to seventeen per cent.[6] The extension of the tax upon profits which now took place was the most important that had thus far occurred. A tax of ten per cent was levied upon the net income received by any person from any licensed trade, business, or occupation, from the use of money by others for the

[1] Acts of general assembly, 1861, chap. 1, sec. 10.
[2] Laws of general assemby, 1861–2, chap. 1, sec. 9.
[3] Laws of general assembly, 1861–2, chap. 1, secs. 5 and 10.
[4] Laws of general assembly, 1861–2, chap. 1, sec. 2.
[5] Acts of general assembly, 1863, chap. 1, sec. 10.
[6] Acts of general assembly, 1863, chap. 1, secs. 5 and 14.

benefit of the owner, from buying and selling, from the exchange of real or personal property or of bonds, stocks, or other choses in action, and from any other trade or speculation. In determining the net income or profits, the law allowed each individual to deduct from his gross income all expenses of carrying on the business during the year, as well as all licenses and other taxes paid by him during the same period.[1] A general exemption of $3000 was allowed, and certain other minor exemptions, such as the profits derived from the exchange of real or personal property to be used by the purchaser and the profits derived by a farmer from the sale of cattle kept by him for more than three months or from produce raised upon the farm. To prevent the double taxation of incomes it was provided that those subject to other forms of the income tax should be exempt from this tax on profits.[2] In order to prevent false returns the law empowered the auditor of public accounts to require, whenever he deemed it necessary, the sworn statement of the individual himself or of any other person familiar with the facts as to the correctness of the declaration.

Virginia employed another method for reaching the revenues of individuals which, while in name a tax upon corporations, was in fact an income tax. It took the form of a tax levied upon the dividends of corporations to be deducted by the proper officials of the company at the time the dividends were declared. This method of taxing incomes at the source we find in use as early as 1843,[3] but it appears to have reached its most general application by this act of 1863.[4] Like the Pennsylvania

[1] Acts of general assembly, 1863, chap. 1, secs. 10, 11, 12, 13.

[2] Acts of general assembly, 1863, chap. 1, sec. 11.

[3] Acts of general assembly, 1842, chap. 1, sec. 3.

[4] Acts of general assembly, 1863, chap. 1, secs. 6, 7, 8, 9.

tax it appears to have met with quite general approval.

For three years the taxation of incomes continued without change, but in 1866 the entire legislation dealing with the revenues underwent a complete revision. The law in force at the present time is, in its essentials, but a modified form of the act of 1866. Three laws were now enacted, the first providing for the assessment of persons, property, and incomes; the second providing for the assessment of licenses and defining the various industries to be licensed; and the third fixing the rates. The first of the acts classified the various objects of taxation under five schedules—A, B, C, D, and E. In schedule A the assessors were required to list all persons subject to poll taxes; in schedule B, all personal estates; in C, personal property in choses in action, money credits, and capital; in D, incomes; and in E, salaries, corporations, and other businesses. The last two schedules only are of special interest to us in this discussion.

Under schedule D incomes were arranged into six different classes according to the sources from which they were derived. The first class included incomes received in the form of interest or profit from public bonds. The second class included incomes received from companies incorporated by the state which did not pay taxes into the state treasury. The third class included incomes received in the form of interest or profits from companies or businesses chartered outside the state, or from businesses organized within the state, whether chartered or not, but doing business outside. The fourth class included incomes in excess of $500 derived from licensed businesses, unless the license tax was based upon the sales, receipts, or profits of the year. The fifth class included incomes in excess of $500 derived from trade or speculation. Here were

to be listed all incomes received from an unlicensed business where the income arose from the use of money by the person for his own benefit or that of another; from the buying or selling of cattle, horses, or other property; from the exchange of real or personal property; from the buying or selling or exchange of bonds, public or private, or of other evidences of debt; from the buying or selling of stocks or other choses in action; and from any other trading speculation or professional occupation or business. The sixth class included incomes in excess of $500 received from fees of office. Fees to be paid by insolvent persons and income from property otherwise taxed were exempted from this tax.[1]

Schedule E, under which salaries were assessed, required the assessor to ascertain from each person and list the amount of his salary in excess of $1000 received during the year from any office or employment under the United States or any state, company, firm, or person. The state officials who were paid out of the treasury of the state were exempt from this assessment, since, the amount of their salary being already known, by special provision their tax (as well as any debts due the state) was deducted at the time the salary was paid. Ministers of the gospel continued to be exempt from the payment of the tax.[2]

In order to prevent false listing of property, the law provided that upon reasonable evidence the state should file a bill against any supposed guilty party, setting forth the omissions or errors; and if after trial by a jury the individual was found guilty, all his "estate, or partially omitted subjects of taxation, above the amount, quantity or value specified in his returns should be confiscated to

[1] Acts of general assembly, 1865–6, chap. 1, sec. 59.

[2] Acts of general assembly, 1865–6, chap. 1, sec. 60.

the state and be collected and paid into the treasury as the court should direct."[1]

The second law classified licenses under six schedules —A, B, C, D, E, and F. Schedule A included licenses upon sales, such as made by merchants and the like. Schedule B included licenses upon purchases and sales made by stock brokers and similar classes. Schedule C included licenses of eating and drinking establishments. Such licenses varied according to the annual value of the business. Schedule D included the licenses of public entertainments of all kinds. Schedule E included the licenses upon various professions, such as lawyers, physicians, surgeons, dentists, and daguerrean artists. These classes were required to keep an exact account of their annual incomes,[2] and were taxed, besides their license, one per cent upon their income in excess of $500.[3] Schedule F included licenses for businesses not included in any of the previous schedules.

The third law provided for levying the rates by the classes enumerated in the previous laws. The objects assessed under chapter one, schedule D, classes one, two, and three, that is, income derived from public bonds, from companies incorporated in the state, from companies or businesses chartered outside the state or organized within the state but doing business outside, or from private individuals was taxed three per cent, no exemption being allowed.[4] The rate upon incomes derived from sources enumerated in classes four and five, that is, upon those derived from licensed businesses and from unlicensed trades or speculations, was

[1] Acts of general assembly, 1865–6, chap. 1, sec 61.

[2] Acts of general assembly, 1865–6, chap. 2, secs. 39, 40, 43.

[3] Acts of general assembly, 1865–6, chap. 3, secs. 50, 51, 54.

[4] Acts of general assembly, 1865–6, chap. 3, sec. 8.

four per cent on the amount above $500. The rate upon the sixth class, fees from office, was one and one-half per cent on the amount above $500. Salaries were by this act taxed one-half of one per cent on the amount in excess of $1000.[1]

The license taxes, in so far as they are of interest to us, have already been treated. It may be mentioned, however, that commission merchants were required to pay, besides a license tax of $25, a tax of two per cent upon commissions received during the year.[2]

During the special session of 1867 the law of the previous year by which the various rates were fixed was re-enacted and the rates levied upon incomes quite generally changed. The rate upon classes one, two, and three of schedule D was increased to five per cent;[3] that upon class five was increased to five per cent;[4] that upon class six was lowered to one per cent;[5] that upon class one, schedule E, was raised to one per cent.[6] The exemptions previously allowed remained unchanged. It was further provided by this law that capital, with but few exceptions, should not be subject to taxation except as reached by the income tax. The rate levied upon the income of lawyers, physicians, dentists, surgeons, and daguerrean artists[7] was also raised to two per cent on the amount in excess of $500. The combined license and income tax was at the same time extended to private bankers and stock brokers, who were obliged to

[1] Acts of general assembly, 1865-6, chapter 3, secs. 9, 10, 11.
[2] Acts of general assembly, 1865-6, chap. 3, sec. 23.
[3] Acts of general assembly, 1866-7, chap. 298, sec. 59.
[4] Acts of general assembly, 1866-7, chap. 298, sec. 8.
[5] Acts of general assembly, 1866-7, chap. 64, sec. 9.
[6] Acts of general assembly, 1866-7, chap. 64, sec. 10.
[7] Acts of general assembly, 1866-7, chap. 64, secs. 50, 51, 53.

pay a heavy license tax and a tax of five per cent upon their annual profits.[1]

By the act of June 29, 1870,[2] the present mode of assessing and taxing incomes was introduced. The arrangements of the objects of taxation under schedules was continued, but the division of incomes into six classes under schedule D was discontinued, it being provided that the assessor should here simply list the aggregate amount of income in excess of $1500 received by or due to any person within his district during the year. Ministers of the gospel and state officials were not subject to this assessment, the former being exempt from the tax and the latter class being obliged to pay it at the time they received their salaries.

The law next defined "income" as including, for the purpose of taxation, "all interest upon notes, stocks, bonds, or other securities of whatever description of the United States or of any state, or of any corporation, company, partnership, firm, or individual collected or received during the year, less the interest due and paid by said person during the year; the amount of all premiums on gold, silver or coupons; the amount of sales of live stock and meat of all kinds less the value thereof at the time of assessment of the same, provided the value has heretofore been taxed as capital; the amount of sales of wool, butter, cheese, hay, tobacco, grain, or other vegetable, agricultural, or other product grown or produced by said person; all other gains and profits derived from any other source whatsoever and the share of the gains and profits of all companies, whether incorporated or partnership, of any person who would be entitled to the same if divided, whether said profits were

[1] Acts of general assembly, 1866–7, chap. 64, sec. 36.

[2] Acts of general assembly, 1869–70, chap. 189.

divided or not; provided, however, that no income shall be included which was received from corporations or institutions whose officers, under the requirement of the law, deduct the state tax due thereon before paying the same to the parties entitled to receive said income, and pay the said state tax to the officer or officers entitled to receive the same; and provided further that in addition to the $1500 aforesaid there shall be deducted from the income of the person assessed all losses sustained by fire or shipwreck, all losses incurred in trade, all sums actually paid for labor or service, all fertilizers purchased and used by any person who cultivates land or conducts any business from which income is actually derived, except sums paid out for improvements, new buildings, and betterments made to increase the value of the property or estate; and provided further that only one deduction of $1500 shall be made from the aggregate income of any family except that guardians may make a separate deduction of $1500 in favor of each ward out of the income coming to said ward, save when the income accruing to wards is derived from joint property when only one deduction shall be made."[1] The rate of tax levied upon incomes as above defined was two and one-half per cent on the amount in excess of $1500.[2] The combined license and income tax which had been for some time levied upon attorneys, physicians, surgeons, dentists, and daguerrean artists was now changed to a license tax.[3]

The machinery of the tax system also underwent some change. All persons were required under oath to list and state the value of their property on forms pro-

[1] Acts of general assembly, 1869–70, chap. 189, sec. 16.

[2] Acts of general assembly, 1869–70, chap. 226, secs. 7, 40.

[3] Acts of general assembly, 1869–70, chap. 226, secs. 40, 47, 48.

vided by the commissioner and within ten days to return them for deposit with the clerk of the county or corporation court. If the commissioner was dissatisfied with the returns, he was permitted to change them as he thought proper, notifying the taxpayer of such changes. If the latter objected the differences were settled by two voters to whom the case was referred; if these two could not agree a third was called in, no further appeal being allowed. If any person failed or refused to return his taxable property as required he was to be tried, and if found guilty by a jury of keeping back all or any part of his property, an amount equal to double the tax thus evaded together with an amount equal to the expenses of the suit was to be sold and the proceeds paid over to the state.[1]

The law of 1871 reduced the exemption on income to $1000 and the rate to one-half of one per cent on the amount in excess of $1000.[2] The definition of "income" was extended to include all rents. Interest derived from notes, stocks, and bonds was now taxed only when the sources themselves were not taxed; income from county bonds, though probably included in the definition of the previous year, was now explicitly mentioned as an object of taxation; and in several other instances the attempt was made to attain greater clearness. In estimating their income the taxpayers were no longer allowed to deduct losses sustained by fire or shipwreck.[3] The special provision providing that the income of public officials who were obliged to pay their tax at the time of receiving their salaries should be

[1] Acts of general assembly, 1869–70, chap. 189, secs. 10, 17.

[2] Acts of general assembly, 1870–71, chap. 193, sec. 7.

[3] Acts of general assembly, 1870–71, chap. 72, sec. 61.

exempt from the operation of this law was now stricken out, but this apparently in no way affected practice. The tax upon stock brokers and private bankers, which had been for some time a combined license and profits tax, was now made a straight license.[1]

The changes of 1872 were but few. Income as defined under schedule D was now made to extend to salaries,[2] and the rate of the tax was increased to one per cent, with the former exemption of $1000.[3] The license taxes were also continued with no important change. Commission merchants were now required to pay, besides an annual license, a tax of three per cent upon their commissions.[4] In the next year they were made subject to a sort of graduated license tax.[5]

In 1874 the acts providing for the assessment of taxes and for the levying of rates were combined into one. The exemption was lowered, apparently without opposition,[6] to $600, and the definition of income somewhat changed. In estimating the amount of income, the individual was now allowed, in addition to the amount previously deducted, to subtract from his gross income "all losses sustained during the year" and all sums actually paid for ditches, fences, taxes, and rents, as well as for all clover and other seed produced and used by any person cultivating land. The rate of the tax remained unchanged.[7] Except for occasional modifications of the rate the tax upon hotels, boarding houses, eating houses, and the like had continued unchanged until

[1] Acts of general assembly, 1870–71, chap. 193, sec. 33.
[2] Acts of general assembly, 1871–72, chap. 159, sec. 61.
[3] Acts of general assembly, 1871–72, chap. 385, sec. 7.
[4] Acts of general assembly, 1871–2, chap. 385, sec. 19.
[5] Acts of general assembly, 1874, chap. 240, sec. 109.
[6] See the *Richmond Whig*, April 10, 1874.
[7] Acts of general assembly, 1874, chap. 240, secs. 66, 67.

1875, when it was made a sort of graduated tax by the provision that they should pay, besides their license tax, a rate of eight per cent upon their annual rent between $100 and $1000, three per cent upon rent between $1000 and $2000, and two per cent upon all rent above $2000.[1]

Since 1874, although revenue laws have been repeatedly passed, no important changes have been made in the income tax.[2] The law now upon the statute books was passed February 24, 1898.[3] The method of defining income which was first employed in 1870 still continues. The changes which have been made in the definition from time to time have been in the direction of extension. The law now provides that the assessor shall list the aggregate amount of income in excess of $600 received by or due to any person in his district during the previous year (the year beginning February 1) except salaries of officers of the state payable at the treasury, the tax on which is collected at the time the salary is audited and paid. "Income" is defined as including "all rents, salaries, interest upon notes, bonds or other evidences of debt of whatever description, of the United States or any other state or country, or any corporation, company, partnership, firm or individual collected or received during the year less the interest due and paid by said persons during the year, the amount of all premiums on gold, silver or coupons, the amount of sales of live stock and meats of all kinds less the value assessed thereon the previous year by the commissioner, the amount of sales of wool, butter, cheese, hay, tobacco, grain, vegetable or

[1] Acts of general assembly, 1874–5, chap. 239, sec. 70.

[2] *See* Acts of general assembly, 1875–6, chap. 169, secs. 10, 11; 1881–2, chap. 119, secs. 10, 11; 1883–4, chap. 450, secs. 10, 11; 1889–90, chap. 244, secs. 10, 11.

[3] Acts of general assembly, 1897–8, chap. 496.

other production grown or produced by said person during the preceding year, whether the same was grown during the preceding year or not, less all sums paid for taxes and for labor, fences, fertilizers, clover or other seed purchased and used upon the land upon which vegetables and agricultural productions were grown or produced and the rent of said land paid by said person, if he be not the owner thereof; all other gains and profits of all companies, whether incorporated or partnership, of any person who would be entitled to the same if divided, whether said profits had been divided or not, provided that in addition to the same $600 as aforesaid, there shall be deducted from the income of the person assessed all losses sustained; provided further that only one deduction of $600 shall be made from the aggregate income of any family except that guardians may make a separate deduction of $600 in favor of each ward out of income coming to said ward." [1]

The income tax has never been questioned in the courts, and on the other hand it has never been enthusiastically advocated. It has been treated with indifference rather than with disfavor.

As a source of revenue the income tax has been comparatively unimportant except for a short period during the Civil War. In 1844, the year after it was introduced, when the total state tax was about $432,000, it yielded but $16,719, and of this amount $11,566 was derived from the tax on interest. In that year 121 of the 130 counties in the state levied the tax upon interest, and 104 levied it upon other forms of income.[2] The next year there was little change either in the amount of revenue derived or in the number of counties taxing in-

[1] Acts of general assembly, 1897–8, chap. 496.

[2] Auditor's report, November 20, 1845.

comes.[1] But by 1853, with a state tax of a little over $1,000,000, the amount received from the income tax had increased to over $36,000. This increase is explained in part by the changes made by the law of 1852. The per cent of counties paying the tax had decreased, 88 of the 145 counties paying the tax upon interest, 108 paying the tax upon income not previously taxed, and 127 paying the tax upon salaries and fees.[2] In 1856 the tax rate was doubled, and in 1858 the amount received was $99,481, $51,669 being derived from the tax on interest.[3] Two years later the aggregate income taxed amounted to $3,903,036, while the tax had increased to $104,517.[4] By 1863 the amount of income taxed had increased to $10,966,057 and the tax to $178,945, $92,780 being derived from the new 10 per cent tax upon profits.[5] After the changes in the tax law made in 1866, the amount of income taxed fell to $800,998 and the tax to a little over $23,000.[6] Although by the acts of 1870 and 1871 the income tax was made to include rents, still in 1873, with a state tax of $2,268,000, the income tax amounted to only $33,140.[7] Of this amount the city of Richmond paid $13,871. By 1888 the tax upon incomes had reached $38,145[8] and continued to increase until in 1891 it reached $62,207.[9] After 1891 the amonnt fell off, in 1897 being but $37,502 while the state tax was $2,044,111.[10] Since 1897 the tax has been increasing,

[1] Auditor's report for 1846.
[2] Auditor's report for 1853.
[3] Auditor's report for 1859.
[4] Auditor's report for 1860.
[5] Auditor's report for 1863.
[6] Auditor's report for 1866.
[7] Auditor's report for 1873.
[8] Auditor's report for 1888.
[9] Auditor's report for 1891.
[10] Auditor's report for 1897.

amounting in 1899–1900 to $54,565 out of a total state tax of $2,132,368. Of late years nearly one-half of the income tax has been paid by the city of Richmond. For the past quarter of a century only about three-fourths of the counties in the state have levied the income tax, and during the past decade on an average only 71 counties out of the 100 have made any returns of the tax at all.

These facts[1] show that while the income tax has yielded more revenue than in some of the other states, it cannot be regarded as a success. In 1899–1900 it amounted to only a little over one-fortieth of the total state tax. The administration of the tax has not been general, it does not seem to be growing in public favor, and as a source of revenue it has been insignificant.

[1] For a more complete statement see Appendix B.

CHAPTER V

THE INCOME TAX IN NORTH CAROLINA

The income tax first appeared in North Corolina in 1849. A law of that year levied a three per cent tax upon all interest safely secured and on all profits derived from money invested in trade or in stocks or shares of any corporation or trading company. Persons whose interest or profits did not exceed the sum of $60 were exempt, and every person was allowed to deduct from the interest or profits which he received an amount equal to the sum of interest which he owed or paid.[1] The tax popularly known as the "tax on salaries and fees," levied by the same act, although treated by some as an income tax, was rather a license tax. It provided that after the first five years of their practice all surgeons, dentists, physicians, lawyers, and all other persons, except ministers of the gospel, the governor of the state, and judges of the supreme court, whose practice, salary, or fees separately or together yielded an annual income of $500 should be subject to an annual tax of three dollars.[3] The objects made subject to the income tax were to be returned under oath to the justices of the several counties in the state the same as was other property,[4] and any one failing or refusing to do so was obliged to pay, in addition to a double tax, a fine of $100.[5]

A reenactment of the law in 1851 brought a reduction

[1] Laws of 1848–49, chap. 77, secs. 1, 2, 4.

[2] E. R. A. Seligman, The income tax in the American colonies and states, *Political Science Quarterly*, vol. X, p. 241.

[3] Laws of 1848–49, chap. 77, sec. 6.

[4] Laws of 1848–49, chap. 77, sec. 5.

[5] Laws of 1848–49, chap. 77, sec. 11.

of the exemption from $60 to $30[1] and a change of the tax upon salaries and fees to one more in the form of an income tax. All persons except ministers of the gospel, the governor of the state, and the judges of the supreme and superior courts were to pay upon their annual salaries and fees when the same exceeded $500 three dollars for the first $500 excess and two dollars for every additional $500.[2]

In 1855 the law declared that the three per cent tax should be charged upon net interest even though it were converted into principal, since it became an interest bearing subject.[3] The tax upon profits was also made more explicit by the provision that the three per cent rate should be charged upon all net dividends or profits actually due or received from money invested in steam vessels of twenty tons burden or upwards, in stocks of any kind, or in shares of any incorporated or trading company. This tax was levied upon all bank dividends and upon the income derived from bonds and certificates of debt of any other state or county or of any public corporation.[4] The exemption allowed was now lowered from $30 to $6, but the individual when determining his net interest or profits was permitted as before to deduct from the amount received by him such interest as had accrued against him.[5] The tax upon salaries and fees was modified by the provision that all persons, except ministers of the gospel, whose practice, salaries, or fees amounted to $500 annually should pay a tax of three dollars on the $500 and two dollars on every addi-

[1] Laws of 1850–51, chap. 121, sec. 2.
[2] Laws of 1850–51, chap. 121, sec. 4.
[3] Laws of 1854–55, chap. 37, sec. 19.
[4] Laws of 1854–55, chap. 37, sec. 20.
[5] Laws of 1854–55, chap. 37, sec. 21.

tional $500 until their income exceeded $1500, and five dollars for every $500 above that amount.[1] The judges of the supreme court of the state, questioning whether they were to pay the tax upon their salaries, addressed a series of questions to the attorney general, who, in reply, expressed the opinion that the legislature intended to tax the salaries of all state officials, but in so far as the tax affected the salaries of the state judges it was unconstitutional.[2] However, the matter was never brought to a test.

With the exception of an increase in the rate of the tax to four per cent[3] no further change took place until the important modification of 1859. The objects of taxation were arranged in three schedules—A, B, and C. Schedule A contained the "listed property," including real and personal property and polls; B, licenses; and C, corporations. Henceforth the income tax is listed in schedule A. The rate on income from interest remained four per cent, but it was expressly declared that the assessment should be made whether the interest had been received or had simply accrued. However, the actual scope remained practically as before. The tax upon profits was extended so as to reach a few unimportant sources. For instance, a tax of one per cent was levied upon the receipts of ferries, five per cent upon those of toll gates and toll bridges, while "note shavers" were required to pay, in addition to their interest tax, ten per cent on the aggregate amount of their profits. The tax upon the profits derived from the slave trade was at the same time changed to a tax on the amount of purchases. The tax upon salaries and fees

[1] Laws of 1854–55, chap. 37, sec. 39.

[2] 3 Jones, Appendix.

[3] Laws of 1856–7, chap. 34, secs. 19, 20, 21.

was now made general, the law providing that "every resident surgeon, dentist, physician, lawyer, portrait or miniature painter, daguerrean artist or other person taking likenesses of the human face; every commission merchant, factor, produce broker, and auctioneer; every state and county officer, and every person in the employment of incorporated or private companies, societies, institutions or individuals, and every other person (except ministers of the gospel and judges of the superior and supreme court) whose annual total receipts and income (whether in money or otherwise) in the way of practice, salary, fees, wages, perquisites and emoluments, amount to, or are worth five hundred dollars or upwards" should pay a tax of one per cent on their total receipts and income.[1]

Difficulty having been experienced in enforcing the law as passed in 1859, an act amending it was passed early in 1861. It required that the tax upon interest should be construed to extend to that received or accrued whether held in one's own right or as a guardian, executor, administrator, clerk or clerk and master of any court, or as a trustee or agent of any kind whatever. Every person having in his possession interest subject to taxation was required to list it. The tax upon interest derived from public bonds was also extended to include that received from bonds of the state issued after February 23, 1861, the date upon which the bill was ratified. The rate remained four per cent.

A provision requiring that the tax upon profits be levied upon the "net dividend or profit" miscarried through the failure of the law to state what deductions would be allowed in arriving at the net dividend or profit. A discrimination was now made against the prof-

[1] Laws of 1858–9, chap. 25, sec. 27.

its made from capital invested in certain banks, the profits received from capital invested in the Bank of Washington, the Merchants' Bank of Newbern, the Bank of Wadesboro, the Bank of Fayetteville, or the Commercial Bank of Yanceyville being taxed nine per cent, while profits received from capital invested in shares of other banks or in corporations, trading companies, or steam vessels of twenty tons burden or upwards were taxed only four per cent.

The tax upon salaries and fees was now modified so as expressly to include the presidents and cashiers or treasurers of banks, railroads, and other incorporated companies. This in no wise changed the scope of the tax, these classes having been formerly included in the general provision taxing the salary of persons in the employment of individuals or of incorporated or private companies. This law repealed the provision exempting ministers from the tax.[1]

A few months after the passage of this act the war broke out, and the legislature quickly convened in extra session and voted an appropriation of $5,000,000 for public defense. Early in the autumn of the same year it was again convened and this time it revised the revenue law, but without seriously altering the portion relating to incomes. It was provided that the stock and interest held by individuals in all corporations except banks should be assessed, not upon the individual stockholder, but upon the corporation, which should pay the tax.[2] The Commercial Bank of Wilmington, the Farmers' Bank of North Carolina, and the Bank of Charlotte were added to those subject to the special bank tax, the rate of which was now lowered to seven and

[1] Laws of 1860-1, Regular session, chap. 32, schedule A, sec. 2.

[2] Laws of 1861, Second extra session, chap. 31, sec. 5.

one-half per cent, while that levied upon other banks remained at four per cent. The tax upon toll gates, turnpike roads, toll bridges, and ferries was now fixed at two and one-half per cent on their total income. The provision exempting judges from the tax upon salaries and fees was also repealed, making the tax general in its application. The income tax throughout this period was collected by the sheriffs.[1]

In 1863 the general exemption allowed on incomes from salaries and fees was raised to $1000, with the provision that the clause should not be interpreted to apply to the salaries of judges of the supreme or superior courts of law, to those of military officers in actual field service of the Confederate or state governments, or to the salary of the governor.

The tax upon profits underwent important changes.[2] The tax levied upon the profits or interest from capital invested in the banks enumerated was raised from seven and one-half to eight per cent. The ten per cent tax formerly levied upon "note shavers" was now made to include every money exchange, bond and note broker, private banker, and agent of a foreign broker and banker. A tax of twenty per cent was levied upon the profits of persons dealing in liquors, wines, or cordials brought into the state or bought from a non-resident, and a tax of ten per cent on the profits of persons dealing in spirituous liquors distilled in the state. The two and a half per cent tax upon the gross income of toll gates, turnpike roads, toll bridges, and ferries was retained. All persons keeping houses of public entertainment whose annual gross income amounted to $300

[1] Laws of 1861, Second extra session, chap. 31, secs. 54, 56.

[2] Laws of 1863, Regular session, chap. 53, sec. 70.

were taxed one per cent.[1] A tax of two per cent was also levied upon the annual "net profits or dividends" of money or capital invested in the manufacture of cotton or woolen goods, leather, or articles made of leather, iron, or tobacco, and upon that derived from money invested in steamboat companies and railroads. The law providing for license taxes, strange to say, also subjected the industries just mentioned to a tax equal to the net profits in excess of seventy-five per cent of the cost of production;[2] but at the adjourned session which met in December of the same year this clause was repealed and the two per cent tax on profits was made to include the net profits or dividends received from money employed in the purchase and sale of cotton or woolen goods, leather, or articles made from leather, iron, or tobacco, or of corn, flour, bacon, and other provisions, salt, cotton, tobacco, leather, and naval stores. A tax of five per cent was levied upon the net profits derived from the purchase and sale of articles imported into the state from neutral ports through the blockade or bought in any of the states with which North Carolina was at war.[3]

By the legislature which met in 1864, surgeons, dentists, lawyers, all persons making likenesses of the human face, commission merchants, factors, and produce brokers were made subject to a tax of two and one-half per cent on so much of their annual income as exceeded $1000. "All other persons whose fees, wages, perquisites, salaries and emoluments amounted to an annual receipt of one thousand dollars and upwards" were taxed one per cent as before.[4] The principal members

[1] Laws of 1863, Regular session, chap. 53, secs. 70, 86.

[2] Laws of 1863, Regular session, chap. 53, sec. 86.

[3] Laws of 1863, Adjourned session, chap. 22, secs. 1, 2, 3.

[4] Laws of 1864, chap. 27, schedule A, sec. 70.

of this class were the state and county officers (except the governor and the judges of the supreme and superior courts) and persons employed by incorporated or private companies, societies, institutions, and individuals.[1] The governor, the judges of the supreme and superior courts, military officers in the actual field service of the Confederate or state governments, and all "officers disabled and retired for physical disability" were exempt.[2]

The tax upon profits continued much as before. The tax upon "note shavers" money, bond brokers, and private bankers and brokers was raised from ten to twenty-five per cent; that upon the profits of dealers in liquors, wines, and cordials purchased from non-residents of the state or brought into the state was raised to thirty per cent; while that on the profits of dealers in liquors purchased from residents or distilled in the state was increased to fifteen per cent. The tax upon the gross income of toll gates, turnpike roads, toll bridges, and ferries was raised to six per cent, while that upon the gross income of houses of public entertainment in excess of $300 was raised to three per cent.

The profits derived from capital invested in steamboats and railroads were taxed five per cent. The same rate was charged upon profits made by the exchange or in the manufacture of cotton and woolen goods, leather, and articles made of leather, iron, and tobacco and upon profits made in the manufacture of salt if such annual profits did not exceed $10,000; if the profits were between $10,000 and $20,000, a tax of twelve per cent was charged; if between $20,000 and $30,000, a tax of fifteen per cent. The net profits derived from the pnrchase and sale of goods imported through the blockade, as re-

[1] *Cf.* Laws of 1861, Regular session, chap. 32, schedule A, sec. 2.

[2] Laws of 1864, chap. 27, sec. 52.

ported quarterly under oath by the importers to the sheriff or tax collector of the county where the purchases and sales were made, were subject to the same tax. In levying this tax upon profits from capital invested in transportation companies and in trading and manufacturing, it was expressly provided that no deduction should be allowed for taxes paid to the state, to any other state, or to the Confederacy. It was also required that the stock or interest held by individuals in corporations and businesses should be listed with the individual property of the holders in the counties where they resided, except stock in corporations exempt from any other tax than that imposed by the charter. The taxpayers were required to furnish sworn lists of their property; and in case they failed or refused to do so, a double tax was levied.[1]

In 1865, by an "ordinance" passed by the state convention then in session, the tax upon the salaries and fees of surgeons, dentists, physicians, lawyers, artists, commission merchants, factors, brokers, and auctioneers was extended to the income of owners of woolen or cotton factories; the rate was made one per cent upon the amount in excess of $1000.[2] The tax upon the profits of "note shavers," bond brokers, and private bankers was extended to include agents of brokers or bankers in other states, and the rate was lowered to six per cent.[3]

The law of 1866 again made general the tax upon salaries and fees; state and county officers, the president and all other officers of banks, railroads, and other incorporated companies, and "all other salaried persons," except ministers of the gospel, whose annual salaries or

[1] Laws of 1864, chap. 27, secs. 2, 4, 12, 27, 52, 68.

[2] Laws of 1865, chap. 9, sec. 2.

[3] Laws of 1865, chap. 9, sec. 7.

fees amounted to $500 were required to pay a tax of one per cent "on such total salaries and fees."[1]

The rate upon general profits was made progressive by the provision that the net income and profits received by any person, joint stock company, or corporation from any source whatever, except salary and fees, should be listed as "income" and subject to the following rates: — one per cent on incomes above $500 and less than $1000; two per cent on incomes above $2000 and less than $3000; two and one-half per cent on incomes above $3000 and less than $4000; three per cent on incomes above $4000 and less than $5000; and three and one-half per cent on incomes of $5000 or more. It was expressly provided that this tax should be levied upon the interest received from bonds or securities issued by any state, by the United States, or by any foreign government.

In estimating the net income or profits, the individual was allowed to deduct all taxes due the state other than the income tax, rent for the use of buildings or other property, interest on actual incumbrances, usual or ordinary repairs, the cost or value of all labor except that of the taxpayer himself, and the cost of all raw materials, food, or other necessary expenses incidental to the business from which the income was derived. In order to prevent double taxation, it was provided that this tax should be levied in addition to the other taxes except when they were levied upon receipts, dividends, or profits.[2]

The tax upon the interest or profits derived from capital invested in bank stock remained as before except that the rate upon the interest or profits derived from

[1] Laws of 1866, chap. 21, schedule A, sec. 7.

[2] Laws of 1866, chap. 21, schedule A, sec. 8.

capital invested in the eight enumerated banks was raised to nine per cent.[1] The tax upon the profits of note shavers, bond brokers, and the like was now changed so as to tax only money or exchange, and bond or note brokers and their agents, who were now required to pay, in addition to a considerable license tax, a rate of five per cent upon their gross profits.[2] The tax upon the gross receipts of toll gates and toll bridges was made five per cent, while that upon the gross income from ferries was made progressive, the rate being one per cent if the annual income was more than $100 and less than $500, and ten per cent if it amounted to $500 or more.[3] The tax upon the annual gross receipts of hotels, restaurants, and eating houses was now lowered to one-half of one per cent upon the amount in excess of $300.[4]

The changes made in the income tax law in 1867 show a tendency to return to the old proportional rate. Income and profits were made subject to a rate of one-half of one per cent if the income amounted to $500 and was less than $3000, and to a rate of one per cent if the income amounted to $3000 or more.[5] The taxpayer was now requested to return both his gross income and the gross amount of his expenses during the year.[6] The tax upon banks was made three per cent upon the dividends declared, to be paid semi-annually.[7] The tax upon the gross receipts of toll gates, toll bridges, and ferries was now made uniform and was fixed at ten per cent of the amount of the net annual receipts in ex-

[1] Laws of 1866, chap. 21, schedule A, sec. 5.
[2] Laws of 1866, chap. 21, schedule B, sec. 11.
[3] Laws of 1866, chap. 21, schedule A, secs. 3, 4.
[4] Laws of 1866, chap. 21, schedule B, sec. 5.
[5] Laws of 1866, chap. 72, schedule A, class 2, sec. 6.
[6] Laws of 1866–7, chap. 72, schedule A, class 3, sec. 1.
[7] Laws of 1866–7, chap. 72, schedule C, sec. 4.

cess of $500.[1] The rate of the tax upon the gross receipts of hotels, restaurants, and eating houses was lowered to one-fourth of one per cent.[2] The rate of the tax upon annual salaries and fees was also lowered from one per cent to one-half of one per cent.[3] In order to prevent double taxation or evasion it was declared that all taxes on purchases, sales, receipts, earnings, incomes, or profits unless otherwise directed should be on the total amount during the year.[4]

The year 1867 marks the zenith of the North Carolina income tax. This is due in part to the clause inserted in the constitution adopted in 1868 prohibiting the taxation of incomes derived from property already taxed.[5] The law of 1869, though much simpler in form, was more general in scope. It required that a tax of two and one-half per cent should be levied upon the annual net income and profit from any source whatever, other than that derived from property taxed. In estimating his net income, each individual was permitted, as he had been for a number of years, to deduct other taxes due the state, rent for the use of buildings or other property used in the business from which the income was derived, usual or ordinary repairs, and the cost or value of all labor except his own and of the raw materials, food, and other necessary expenses incidental to the business from which the income was derived. In addition to this he was now allowed to deduct the expense of keeping his family, but in no case should the amount exceed $1000 per year.[6] The tax which by the law of 1867 had been

[1] Laws of 1866–7, chap. 72, schedule A, class 3, sec. 4.
[2] Laws of 1866–7, chap. 72, schedule A, class 3, sec. 7.
[3] Laws of 1866–7, chap. 72, schedule A, class 2.
[4] Laws of 1866–7, chap. 72, sec. 1.
[5] Constitution of 1868, article 5.
[6] Laws of 1868–9, chap. 108, class 2, sec. 1.

levied upon the net receipts of toll gates, toll bridges, and ferries was changed to a two per cent tax on gross receipts.[1] The tax upon the gross income of hotels, boarding houses, restaurants, and eating houses was raised to one per cent, such as were used for educational purposes being exempt.[2]

In 1870 the rate levied upon net income or profits was lowered to one and one-half per cent [3] and the tax upon toll bridges, toll gates, and ferries was again changed to a one per cent tax upon net receipts, no exemption being allowed.[4] "Gift enterprises," which had been subject to a license tax, were now made subject to a tax of one per cent upon their gross receipts.[5] Except for unimportant modifications [6] the law remained in this form for nearly

[1] Laws of 1868–9, chap. 108, class 2, schedule B, sec. 18.

[2] Laws of 1868–9, chap. 108, class 2, schedule B, sec. 16.

[3] Laws of 1869–70, chap. 229, class 2, sec. 1.

[4] Laws of 1869–70, chap. 229, schedule B, sec. 15.

[5] Laws of 1869-70, chap. 229, schedule B, sec. 6.

[6] In 1871 the rate on "incomes" was made one per cent; the tax on "gift enterprises" remained at one per cent of gross receipts; lotteries were required to pay, in addition to their license tax, a tax of five per cent upon their gross receipts; the semi-annual tax on banks was made five per cent on the annual dividends or profits. (Laws of 1870–71, chap. 227.)

In 1873 the tax upon hotels, restaurants, and eating houses and also that upon the receipts of toll bridges, toll gates, and ferries was lowered to one-fourth of one per cent, and the tax on gift enterprises to one per cent on gross receipts. (Laws of 1872–3 chap. 144.)

In 1874 it was provided that a tax of one per cent should be levied upon the commission received by commission merchants. (Laws of 1873–4, chap. 134.)

In 1875 the tax upon banks was changed from a tax upon profits to one upon the value of the stock, and the tax upon incomes was raised to two per cent. (Laws of 1874–5, chap. 185.)

In 1877 the rate upon "incomes" was lowered to one per cent; a tax of one-half of one per cent was levied upon the profits of horse and mule traders; and the tax upon commissions was extended to include those of auctioneers. (Laws of 1876–7, chap. 156.)

In 1879 the tax on commissions was extended to commissions from

twenty years. In 1881 the deduction allowed in estimating the income subject to taxation was confined to rent of property and cost of labor and raw materials used in the business from which the income was derived and to the necessary expenses of supporting the family. In no case should the total deduction exceed $1000.[1] In 1885 this maximum exemption was raised to $1500.[2]

In 1887 a distinction was made between income received in the form of salaries and fees and other forms of income. The first was now taxed one-half of one per cent, with an exemption, as before, of $1000 for business and family expenses. A rate of one per cent was levied on incomes and profits derived from property not taxed, with no exemptions.[3] The tax upon hotels, eating houses, and restaurants was repealed. In 1891 the $1000 exemption allowed in the case of salaries and fees was repealed,[4] and it was required that the source or sources of the income should be stated at the time of assessment.[5]

In 1893 the law assumed a more detailed form and the progressive rate was reintroduced. Income received

sales of tobacco by tobacco warehouses in excess of three hundred thousand pounds, and the tax upon the receipt of ferries was lowered to one-tenth of one per cent. (Laws of 1879, chap. 70.)

In 1881 the tax upon the receipts of ferries was changed again to one-half of one per cent, and the tax upon profits from trading in horses and mules was made a straight license tax. (Laws of 1881, chap. 116.)

In 1883 the tax upon the receipts of "gift enterprises" and lotteries was changed to a straight license tax. (Laws of 1883, chap. 136.)

In 1885 auctioneers were taxed on sales, and tobacco warehouses were made subject to a straight license tax. (Law of 1885, chap. 175.)

[1] Laws of 1881, chap. 116, class 2, sec. 1.

[2] Laws of 1885, chap. 175, class 2, sec. 7.

[3] Laws of 1887, chap. 135, sec. 5.

[4] Laws of 1891, chap. 323, sec. 5.

[5] Laws of 1891, chap. 326, sec. 17.

in the form of salaries and fees was taxed, as in 1887, one-half of one per cent on the excess over $1000. The rate on the gross income derived from property not taxed was fixed at five per cent; while that on income derived from other sources not taxed was made progressive, being one-fifth of one per cent on the excess over $1000 and up to $5000, one-fourth of one per cent on the excess over $5000 and up to $10,000, one-half of one per cent on the excess over $10,000 and up to $20,000, and one per cent on the excess over $20,000.[1] The tax of one per cent upon the commissions of commission merchants was also extended to brokers.[2]

In 1895 the rate upon income from sources other than property taxed was made one-fourth of one per cent on the excess between $1000 and $5000, one-half of one per cent on that between $5000 and $10,000, one per cent on that between $10,000 and $20,000, and two per cent on that above $20,000.[3] The rate on the gross income of toll bridges, toll gates, and ferries was also raised to two per cent.[4] In 1897 this law of 1895 was reenacted verbatim.[5] On March 8, 1899, the present law providing for the same rates as the law of 1895 was enacted.[6] Each person is required to make annual returns stating the amount of his income subject to taxation.[7]

The revenue from the income tax in North Carolina has been comparatively small. The tax for 1849, the

[1] Laws of 1893, chap. 294, schedule A, sec. 5.
[2] Laws of 1893, chap. 294, schedule B, sec. 20.
[3] Laws of 1895, chap. 116, schedule A, sec. 5.
[4] Laws of 1895, chap. 116, schedule B, sec. 18.
[5] Laws of 1897, chap. 168, schedule A, sec. 5.
[6] Laws of 1899, chap. 11, sec. 6.
[7] Laws of 1899, chap. 15, secs. 16, 18.

first year the law was in force, amounted to only $28,277. Of this sum $25,135 was derived from the tax on interest, $1619 from that on dividends and profits, and $1523 from that on salaries and fees. Seventy-five out of the seventy-nine counties in the state levied the tax on interest, but only twenty-six counties that on dividends and profits and fifty-five that on salaries and fees.[1] In 1850, with a state tax of $151,713, the tax on incomes amounted to $28,802, $25,010 being received from the tax on interest alone, $677 from that on salaries and fees, and $3115 from that on dividends and profits. Of the eighty counties in the state, seventy-six returned the tax on interest, thirty-eight that on salaries and fees, and thirty-five that on dividends and profits.[2] In 1851 the total income tax amounted to $30,691, $27,600 being received from the tax on interest, $1842 from that on salaries and fees, and $1246 from that on dividends and profits. Of the eighty-one counties in the state, all returned the tax on interest, twenty-eight that on salaries and fees, and thirty-two that on dividends and profits.[3] Although the income tax was continually extended in scope until the adoption of the new constitution in 1868, yet in 1867 the tax yielded but $3839. Of this amount $1648 was from the tax on salaries and fees and $2191 from that on other forms of income. Of the seventy counties in the state, twenty-five returned no tax on salaries or fees and twenty-two none on "net income."[4] By 1877 the tax on "net incomes and profits" had fallen to $1685 out of a total state tax of $495,542.[5] In 1890 the income tax was

[1] Comptroller's report for 1850.
[2] Comptroller's report for 1851.
[3] Comptroller's report for 1852.
[4] Auditor's report for 1868.
[5] Auditor's report for 1878.

$2112 out of a state tax of $601,250, and in 1895 $2731 out of a state tax of $589,385.[1] In 1899, with a state tax of $723,307, the income tax amounted to only $4399; and with the single exception of 1897, when it was $4594, this was the largest amount yielded by the income tax during any year of that decade. Of the ninety-six counties in the state fifty-eight levied the tax, the largest number during the decade.

These statistics[2] show that the income tax has been a complete failure as a source of revenue. However, Benjamin F. Dixon, the present state auditor, says in a private letter in reference to the income tax: "Officials have been very lax in assessing and collecting the taxes. I think a majority of our people are in favor of it, and if the officers would do their duty in regard to listing and collecting the tax, the state would receive a very handsome revenue from this source."

[1] Auditor's report for 1891 and for 1896.

[2] For a more complete statement see appendix C.

CHAPTER VI

THE INCOME TAX IN ALABAMA

From 1819, when Alabama entered the Union, until about 1840, the revenues of the state were derived, as were those of her sister states, principally from licenses, poll taxes, and property taxes. However, under the influence of the strong democratic sentiment which in the early forties swept over the United States, in 1843 a distinct effort was made to attain greater justice in the distribution of the burdens of taxation. The old method of arranging the lands of the state for the purpose of taxation into four classes was abandoned and the system of assessment according to actual value introduced. At the same time the germ of what was to develop later into practically a general income tax made its appearance in the provision that a tax of twenty-five cents should be levied upon every $100 of income of all auctioneers, factors, cotton brokers, and commission merchants doing business in the state.[1]

As this tax reached only a few of those escaping taxation, in 1844, in addition to this tax, which was now reduced to twenty cents on every $100 of income, a rate of one-half of one per cent was levied on the gross annual income of all lawyers, physicians, surgeons, dentists, and all persons receiving a fixed salary from the state treasury or from any bank, mercantile house, university, college, or high school. In case any refused to make returns the assessor was to assess them at $3000.

Profits were but little affected by the law, it being simply required that such gross income as was derived from public ferries, toll bridges, and turnpike gates should be

[1] Laws of 1842-3, act 1, sec. 5.

subject to a tax of one-half of one per cent.[1] This insignificant effort to reach profits was the beginning of a movement which, during the Civil War, developed into a general profits tax. The law remained substantially unchanged during the succeeding four years. Although the taxes secured a more just distribution of the burdens, many still escaped, while others did not contribute according to their ability.

Another act was passed in 1848 with the object of attaining greater clearness and of securing greater justice. The rate upon commissions and brokerage was raised to one per cent on all sums received or charged by any factor, commission merchant, cotton broker, or auctioneer for services in buying or selling any goods, wares, or merchandise or for any other service done in the course of the business.[2] The rate levied on the income of lawyers, physicians, surgeons, dentists, and those receiving fixed salaries was now extended to the income of "every person of whatever craft, employment or profession except artisans and manual laborers." The income of lawyers, physicians, surgeons, and dentists subject to taxation was to be only so much as was actually collected, provided that the minimum tax paid should be five dollars.[3] The gross income of all cotton pickeries in the state was also made subject to a rate of one per cent. By this act also the principle of special exemption was introduced and applied to the income of artisans and manual laborers and all income derived from property paying a tax to the state.[4] The act provided that the tax upon commissions and brokerage should in no way ex-

[1] Laws of 1843–4, act 106, secs. 5, 7, 8.
[2] Laws of 1847–8, act 1, sec. 85.
[3] Laws of 1847–8, act 1, sec. 83.
[4] Laws of 1847–8, act 1, sec. 1.

empt capital employed in the business, but that those subject to the tax should be exempt from all other taxes on income. The counties were divided into assessment districts and the individuals of each district were required to return to their assessor a full list of all taxable property owned by them.

After two years' trial the law underwent a number of significant changes. While the tax of one per cent upon salaries fixed by law and upon the income received by factors, brokers, auctioneers, and commission merchants was continued, it was provided that lawyers, surgeons, physicians, and dentists might pay either a one-half per cent tax upon their annual income or an annual license tax of ten dollars. This option was after a number of years changed to an obligatory license tax. The principle of exempting a certain sum in case of salaries was now introduced by the provision that the tax should be levied only on the gross income in excess of $500 received by any public officer whose salary was not fixed by law, by clerks and book-keepers, presidents of local companies, agents of foreign companies, or by individuals operating within the state. The tax on cotton pickeries was now made one per cent on the gross profit. This method of reaching profits was also extended to include that derived from warehouses used for the storage of cotton and all other forms of merchandise. The tax upon incomes from these new sources was placed at one per cent.[1] In order that more definite returns might be secured, it was provided that all persons subject to the income tax should keep a correct account of all income received by them during the year, and exhibit this account to the collector, verifying it under oath. In case they failed to do so they were to

[1] Laws of 1849-50, act. 1, sec. 1.

be declared guilty of misdemeanor, and if convicted to be fined not less than $50.[1] In this form the revenue system appears to have met no serious opposition, no further changes being made until the breaking out of the Civil War, when the necessities of the times demanded an increase of the revenues.

In 1862 the tax was so extended as to make it almost a general income tax. A tax of ten per cent was levied upon the wages or salaries of all persons who by reason of any engagement, appointment, or contract in any department of the Confederate government were exempt from conscription. An equal tax was levied upon income received from any contracts on account of which the person or persons had been exempted by the state from military service in the Confederate army.[2]

The desire to tax income received in the form of profits led to the most important extension of the law. A sentiment in favor of such a step had been slowly developing since the forties, but it was necessary that the demands of justice should be reënforced by those of expediency before it could take shape in legislation. True, profits had been reached in a rough sort of way by the license tax, but this was not satisfactory. Consequently in 1862 it was provided that a tax of five per cent should be levied upon the "net profit" received during the year by any individual from hotels, distilleries, breweries, restaurants, tanneries, foundries, forges, warehouses, saw, grist, or other mills, hacks, drays, stage-coaches, omnibuses, steamboats, railroads, establishments for the manufacturing or repairing of shoes, harness, hats, carriages, wagons, guns, pistols, or bowie knives, establishments for the manufacturing of iron, woolen, and cotton goods,

[1] Revised statutes, 1852, p. 133.

[2] Laws of 1862, act 1, sec. 10.

cotton yarn, or for carding and spinning wool or cotton, from mining, quarrying, or working marble, and all other kinds of manufacturing establishments; also upon the net profits derived from cotton presses, printing establishments, and livery stables. In estimating the "net profit" the amount of capital actually invested and necessarily employed was to be considered and the profits were to include all gains made by sales or resales either directly or indirectly.

An equal tax was also levied upon the net profit received during the year by any individual from the sale of any forms of merchandise or commodities, many of which, including negroes, were specifically enumerated. The net profit was to be estimated in reference to the original price paid to the producer, manufacturer, or importer, adding the expense of transportation, insurance, exchange, and all other bona fide expenses. That the levy might not result in double taxation it was further provided that all capital invested in any business the net profits of which were taxed should be exempt. This did not apply, however, to capital employed in tanneries, in the manufacture of woolen or cotton goods or cotton yarn, or in the manufacture and sale of shoes or to investments in steam-boats, all of which, it was thought, would make sufficient gains as a result of the war to pay the additional tax without serious inconvenience. In order to assist the assessor to obtain full and correct returns the law provided that any person subject to the above tax willfully failing or refusing to furnish a written statement, under oath, of his receipts, sales, salary, commissions, and profits should be liable to fine or imprisonment or both. The assessor was also to keep himself posted upon the facts as nearly as possible and was given authority to examine any per-

son upon oath whom he believed to be acquainted with the facts as to the correctness of any list or valuation.[1]

The following year the tax upon "net profits" was extended to include those derived from the purchase and sale of gold, silver, sterling exchange, bank notes, bonds of the Confederate states and of the state of Alabama, bonds of railroad companies, domestic bills of exchange, notes, and all other evidences of debt. The rate was increased to seven and one-half per cent.[2] Since evasions had taken place, notwithstanding all the precautions and threats of the previous year, the assessors were now required to demand of each taxpayer an affidavit in writing stating whether or not he had paid the tax upon profits levied during the previous year, and to collect all that had not been paid.[3]

In 1864 the rate upon all forms of income except profits was raised. However, the ten per cent tax which had been levied since 1862 npon the wages and salaries of all persons who by reason of any engagement, appointment, or contract in any department of the Confederate government were exempt from conscription was repealed.[4]

In 1866 the tax became less complex in form but at the same time approached more nearly a general income tax. While in some instances the law continued to designate the source from which the income should be derived, a general provision required that "a tax of one per cent should be levied upon the annual gains, profits, salaries and income in excess of $500 received by any person within the state." In determining the amount

[1] Laws of 1862, act 1, secs. 3, 4, 5, 11, 12.
[2] Laws of 1863, act 83, sec. 2.
[3] Laws of 1863, act 83, sec. 3.
[4] Laws of 1864, act 63.

of income subject to taxation the following deductions were allowed: all taxes except the income tax; all income derived from dividends or shares in the capital stock of an incorporated company where such tax had been assessed and paid by such incorporated company; the rental value of the homestead, whether owned or rented by the person occupying it; the rent paid for all buildings, lands, or other property; the interest paid upon actual incumbrances; the amount paid for ordinary repairs, not including new buildings; the wages of labor to cultivate the lands or to conduct any other business from which the income was derived.[1] The following year the law was reënacted without important change,[2] except that the exemption was raised to $1000. In 1868 the rate of the tax upon incomes was raised to three-fourths of one per cent and the tax was extended so as to include the gross income of breweries, lotteries, and gift enterprises and the commissions of real estate brokers.[3] The exemption was also increased to $1000.

With the exception of changes in the rate, this tax continued without modification until 1875,[4] when factors, brokers, commission merchants, and auctioneers were allowed to deduct from their annual income the actual expenses of conducting their business, and when the exemption allowed in the case of salaries was lowered to $500.[5] In the following year this exemption was withdrawn and a tax of seventy-five cents levied upon each $100 of all salaries, gains, incomes, and profits.[6] Except for changes in rate the law continued in this form

[1] Laws of 1865–6, act 1, chap. 1.
[2] Laws of 1866–7, act 260, sec. 3.
[3] Laws of 1868, November session, act 1, secs. 4, 6, 13.
[4] *See* Laws of 1873, act 1.
[5] Laws of 1874–5, act 1, secs. 4, 11,
[6] Laws of 1875–6, act 1, chap. 111, sec. 4.

until 1881, when a tax of sixty-five cents was levied on each $100 of salary, income, gains, or profits in excess of the actual expenses incident to the office, business, or pursuit from which the income was derived. Persons subject to the tax were permitted to deduct $800 for living expenses.[1]

This was the last serious attempt made by the state to levy a general income tax. Evasion was so common that the auditor in 1883 said in his report: "Taxes upon salaries, gains, incomes and profits are regarded with disfavor by almost every taxpayer, no matter how willing he may be to contribute his part to the support of the government of the state. Such taxes are, in the very nature of things, attained by processes inquisitorial in character and therefore to most persons exceedingly obnoxious. In addition to this the law authorizing them has never been and probably never will be properly executed and consequently does not bear equally alike upon all. The person with a salary, although he uses every dollar of it in an economical support of his family, must pay a tax upon it whether he is willing or not, because of the ease with which the assessment can be made; while another, who has an income of thousands annually, avoids a tax upon it by simply saying he has none and because of a lack of persistence upon the part of the assessor. I do not hesitate, therefore, to give it as my opinion that it should be repealed. If this is not done, it should be modified so as to leave every man so much of his salary, exempt from taxation, as may be necessary to support his family, and so amended as that it shall force the man with the real income to pay a tax upon it."[2]

As a consequence, in the general law of 1884, which

[1] Laws of 1880–1, acts 1 and 4.

[2] Auditor's report for 1883, p. 17.

revised the revenue system of the state, a special provision was incorporated requesting the assessors in each county to levy the tax due upon the salaries, gains, profits, and incomes that had escaped at any time during the preceding ten years.[1] The general provision levying the income tax was then dropped and has never since appeared upon the statutes. Until the present time, however, the tax upon certain forms of gross income, such as that of factors, commission merchants, auctioneers, cotton pickeries, warehouses, toll bridges, and ferries has continued;[2] but it has been of no importance. The history of the income tax in Alabama really closed with the act of 1884.

The income tax met with considerable opposition and was several times taken into court. In 1870 a taxpayer persistently refused to give in his income, declaring that he had invested it in real estate upon which he paid taxes. The matter was carried into court, where it was decided in favor of the state, the court holding that the tax should be levied according to the law on income regardless of its disposition.[3] Again, in 1879, an unsuccessful effort was made to secure a decision to the effect that the taxes upon the dividends of companies and upon salaries, incomes, gains, etc., was double taxation since the latter was, as a rule, paid out of the former.[4] Since this open hostility was supported by a general indifference with respect to the enforcement of the law, it is not surprising that the tax soon ceased to be levied.

Alabama's experience with the income tax as a source of revenue was not unlike that of the other states. The

[1] Laws of 1884–5, act 1, sec. 6.
[2] Laws of 1898–9, p. 50.
[3] 44 Alabama, 593.
[4] 64 Alabama, 269.

decade between 1870 and 1880 may be taken as well illustrating the results of the tax in this respect. In 1870 the income tax amounted to $11,547 out of a total state tax of over $1,122,000, annual "gains and income" over $1000 yielding a tax of $10,429 on an assessment of $1,395,520 and salaries, etc. in excess of $1000 yielding a tax of $1118 on an assessment of $163,613.[1] In 1872 out of a total state tax of $767,193, the income tax was $8269, the tax on "gains and income" amounting to $7318 on an assessment of $1,009,973, and the tax on salaries, etc. amounting to $951 on an assessment of $132,144.[2] In 1875, with a total state tax of over $459,000, the income tax amounted to $3778, the tax on gains and income being $3273 and that on salaries, etc. being $505.[3] In 1879 the entire income tax amounted to $8109[4] out of a total state tax of about $790,000. During the last years that the tax was levied the amount of revenue received was a little greater than it was during the seventies. In 1880 it was in round numbers $9000; in 1881, $12,000; in 1882, $22,000; in 1883, $14,000; and in the last year, 1884, $11,532. The state tax during the same period was about $600,000 annually, in 1884 reaching $678,000.

That as a source of revenue the income tax was quite insignificant may be explained, in part at least, by the laxness with which the law was administered. In 1870, of the sixty-four counties in the state forty-three returned gains and income, five returning over $100,000 each and paying more than three-fourths of the tax. Twenty-eight returned salaries, three re-

[1] Auditor's report for 1870, pp. 80–81.
[2] Auditor's report for 1872, pp. 122–23.
[3] Auditor's report for 1875, pp. 120–21.
[4] Auditor's report for 1879, pp. 126–27.

turning more than $10,000 each and paying over one-half the tax. Nearly one-fourth of the total tax upon incomes received by the state during the year was paid by the county of Mobile.[1] In 1872, of the sixty-five counties forty-one returned gains and income, three returning amounts aggregating more than $100,000 each and paying nearly two-thirds of the tax. Thirty-two returned salaries, Montgomery alone returning more than $10,000 and paying nearly one-half the tax.[2] In 1875 but twenty-two counties returned gains and income, Mobile alone returning over $100,000 and paying almost half the tax. Twenty-one returned salaries, etc., Dallas returning more than $10,000 and paying over one-fourth the tax.[3] Since 1879 "gains and income" and "salaries" etc. have been reported as an aggregate sum. In that year sixteen counties returned no income of any kind. Of those making returns, three, each returning more than $100,000, together paid over one-half the total income tax.[4] Since 1880, of the sixty-six counties in the state an average of forty-eight have levied the tax.[5] These facts warrant the conclusion that the law was poorly administered. We shall leave the reasons for this laxness of administration for later consideration.

[1] Auditor's report, 1870, p. 80–81.
[2] Auditor's report, 1872, pp. 122–23.
[3] Auditor's report, 1875, pp. 120–21.
[4] Auditor's report, 1879, pp. 126–27.
[5] See Appendix D.

CHAPTER VII

THE INCOME TAX IN SOUTH CAROLINA

Except for the exemption of school teachers and mechanics and several changes in the rate, the tax levied by South Carolina upon profits and wages when she became a state remained in force for over half a century. In 1813, however, a law was enacted providing that all civil officers should pay a tax of forty-five cents on every $100 which they received as perquisites of office.[1] The following year the tax was increased to sixty-two and one-half cents on each $100. In 1832 a tax was placed upon the dividends accruing from stock owned by any citizen of the state in banks not chartered by the state.[2] This act, however, was probably concerned quite as much with the encouragement of state banking as with the increase of state revenues. In 1838 the old law was modified so as to provide for a tax of sixty cents on each $100 of income derived from employments, faculties, and professions and from commissions received by venders, factors, and commission merchants. Clergymen, school teachers, and mechanics were exempted as before. The law further provided that attorneys should pay the tax upon their entire income, whether it were profits, fees, or other forms of professional income.[3] In this form the law continued for nearly a quarter of a century.

When the war opened, South Carolina, being in need of revenue, at once extended her income tax. In 1861 provision was made for a tax of one per cent upon in-

[1] Statutes of South Carolina, McCord, volume 5, p. 712.
[2] Statutes of South Carolina, McCord, volume 6, p. 477.
[3] Statutes of South Carolina, McCord, volume 6, p. 605.

come derived from "factorage employment, faculties and professions, including the professions of dentistry, clerks of courts of common pleas and general sessions, sheriffs, masters and commissioners in equity, registers in equity, registers of mesne conveyance, ordinaries and coroners, whether either in the profession or employment of law or equity, the profits being derived from the costs of suits, fees or other sources of professional income, excepting clergymen, school teachers and mechanics." The same law also provided for an equal tax upon "the amount of commissions received by vendermasters, commission merchants and commercial agents in the state" and upon all "salaries including public offices, except officers of the army and navy and wages over the sum of five hundred dollars from whatever source derived."[1] After three years the tax upon wages and salaries was repealed and the tax upon profits materially extended by the provision that, in addition to those forms of income already subject to the tax, it should be levied upon that received by "persons engaged in inland navigation or operating steam saw mills, hotel keepers, keepers of boarding houses and restaurants, and other eating house keepers, keepers of barrooms and lime and charcoal burners."[2]

As the tax still failed to meet the financial needs of the state, on the recommendation by the governor of a tax upon all salaries and incomes in excess of $500, the legislature in 1866 extended the former law so as to make it practically a general income tax. The tax upon the income of individuals from employments, faculties, and professions was continued, ministers of the gospel being exempt. The tax on commissions was extended

[1] Laws of 1860–61, p. 837.
[2] Laws of 1864–65, p. 231.

so as to reach the income of brokers, factors, dealers in exchange, mortgages, bonds, and other negotiable papers. The tax upon profits was made to include those derived from saw mills, flour mills, grist mills, cotton gins, newspapers, and magazines. A tax was also levied upon the gross income of butchers, hucksters, keepers of hotels, restaurants, bowling alleys, billiard tables, bar rooms, ferries, and toll gates. Interest and rent were reached by a provision that all income in excess of $500 per annum derived from salaries, rent, dividends, and money at interest should be subject to the tax upon incomes.[1] This law enjoyed but a short existence, for upon the adoption of the new constitution in 1868 the taxation of incomes ceased and for nearly thirty years played no part in the financial history of the state.

When the present constitution was framed in 1895, in order to keep the state tax down to four and one-half mills and also to distribute the burdens of taxation more justly, a clause was inserted in the constitution providing for "a graduated tax on incomes and for a graduated license on occupations and business."[2] The experience of the state in securing an income tax is interesting and instructive, as illustrating the common experience of the states with such legislation. Although public opinion appears to have favored some form of an income tax, so difficult was it for the supporters of such a measure to reach an agreement as to the exact nature of the tax and so strong was the opposition that a bill providing for an income tax introduced into the lower house in January of 1896 was decisively defeated.[3]

The following year another bill providing for a graduated tax was introduced. Its supporters argued that

[1] Laws of 1866, p. 395 *et seq.*

[2] Constitution of 1895, article X, sec. 1.

[3] Charleston *Weekly News and Courier*, March 4, 1896.

an income tax is just, that the bill was largely a tax on education, which was proper as education is the capital of many, and that such a tax had been approved by a constitutional convention and by two governors and was now favored by all. The opposition was active. The Charleston *Weekly News and Courier* of February 24, in speaking of the graduated income tax, the graduated insurance bill, and the graduated license tax, said: "as they stand they propose the practical confiscation of the property of certain classes of the people. Nothing more vicious and indefensible has been proposed by the populists of Kansas." Another editorial declared that the bills should not be called "revenue bills—they should be called bills to confiscate the property of certain classes of the people of the state, and to impose unjust and unequal burdens upon selected industries, professions and occupations."[1] The general arguments advanced against the bill were that the law was unconstitutional; that it taxed the poor man; that it resulted in double taxation; that, being graduated, it bore more heavily on some than others; that it would drive capital out of the state; that it would not raise sufficient revenue; that it could not be properly administered and enforced; and that the salaried man would be obliged to pay while others would evade the tax.

Although the weight of opinion was in favor of some such measure, its advocates were unable to agree on the exemption and the rate. Some favored no exemption at all; others an exemption of various amounts from $100 to $2500. The exemption was finally fixed at $1200. After much debate over the rate, this, too, was agreed upon, and the bill passed the house.[2] After the

[1] Charleston *Weekly News and Courier*, February 24, 1897.
[2] Charleston *Weekly News and Courier*, February 24, 1897.

exemption had been raised to $2500 the bill passed the senate. This amendment was accepted by the house and the bill became a law in March, 1897, but it was not to go into effect until January 1, 1898.

The law provided that after that date there should be annually levied upon "the gains, gross profits and incomes" annually received "by any citizen of the state, whether such gains, profits or income be derived from any kind of property, rents, interest, dividends or salaries, or from any profession, trade, employment or vocation carried on in the state, or from any other source whatever, a tax of one per cent on the amount so derived over and above $2500 and up to $5000, one and one-half per cent on $5000 and over up to $7500, two per cent on $7500 and over up to $15,000, and three per cent on $15,000 and over." The tax was also to be levied upon the income of persons living outside the state who owned property or conducted a trade, business, or profession within it. It was provided that the tax should not apply to interest from United States bonds or bonds of the state, the principal and interest of which are by the law of their issue exempt from taxation. Further, in computing incomes, the necessary expenses actually incurred in carrying on any business, occupation, or profession, not including remuneration to the taxpayer for personal supervision or the support and maintenance of his family, were to be deducted from the gross income or revenue, and the word "income" as used was to be taken to mean gross profits. No deduction was allowed, however, for any permanent improvements made to increase the value of the property or to increase the capital, the stock, or the assets. The tax was to be assessed and collected by the same

official and at the same time as the other taxes.[1] The amount to be raised, both for state and local purposes, was to be apportioned by the legislature among the counties and the tax was then to be levied and collected by the county officials.[2]

The tax levied previous to 1868 appears to have yielded but little revenue, and the present tax is apparently working unsatisfactorily. During 1899 it yielded but $5190[3] out of a total state tax of $914,084. Of the forty counties in the state only fifteen levied the tax.[4] A bill providing for the repeal of the tax was introduced into the legislature of 1900. During the debate in the house it was declared that the tax was an "absolute and total failure," being paid only by a few of the honest. Those in sympathy with the law declared, on the other hand, that it took time to demonstrate its advantage to the taxpayers and that it ought to be given a better and further trial. The house passed the bill,[5] but the senate defeated it.

The amount derived from the tax during the year 1900 was only $1,660.07, and a bill was introduced into the legislature in February of 1901 providing for the repeal of the law. Some claimed that it was a dead letter; others favored it, claiming that the principle was right. The bill was finally defeated[6] and the tax continued. The enforcement of the law rests with the county auditors. It appears safe to conclude that the tax will remain insignificant until either the officials are compelled by law or otherwise to enforce the statute or

[1] Laws of 1897, No. 335, p. 529.
[2] Laws of 1896, act 125, p. 278.
[3] Governor's message, delivered January 12, 1900.
[4] Auditor's report for 1900, p. 86.
[5] Charleston *Weekly News and Courier*, January 17, 1900.
[6] Charleston *Weekly News and Courier*, February 9, 1901.

those liable to the tax are induced to see more clearly their duty with regard to it. Even those opposed to the law admit that they could make pretty good guesses as to those who are getting an income of over $2500 a year if they wished to do so.[1] Present indications are that the law will soon be repealed.

South Carolina, however, has employed a local as well as a state income tax. In 1809 an ordinance was passed by the city of Charleston providing that "all profit, or income, arising from the pursuit of any faculty, profession, occupation, trade or employment" should be taxed thirty-three and one-half cents on every $100. The tax was not to extend to clergymen, judges, or school teachers;[2] and the court soon after decided that it did not extend to the salaries of public officials.[3] This law was in operation during much of the present century,[4] but how successful it has been it is impossible to say.

[1] Charleston *Weekly News and Courier*, March 3, 1900.
[2] 3 Brev. 341, City council *vs.* Lee.
[3] 3 Brev. 341, City council *vs.* Lee.
[4] 3 Strob. 395, State *vs.* Elfe.

CHAPTER VIII

THE INCOME TAX IN GEORGIA, FLORIDA, WEST VIRGINIA, KENTUCKY, AND TENNESSEE

Georgia, Florida, West Virginia, Kentucky, and Tennessee may be grouped together, since their limited experience will demand but little attention.

Georgia has had the most extensive experience of the five states and her success was quite marked. Like Missouri, she treated the income tax strictly as a war measure. The tax was introduced early in the year 1863 by an act passed during an extra session of the legislature to provide pensions for dependent widows and orphans of soldiers and to provide for the support of disabled soldiers of the Confederate army. The act was intended to affect only such income as was received in the form of profits. Every person and body corporate engaged in the sale of goods, wares, merchandise, groceries, or provisions, in the manufacture and sale of cotton or woolen goods, in the tanning and sale of leather, in the manufacture and sale of leather goods, or in the distillation and sale of spirituous liquors was required to return under oath the annual net income or profit derived from such business.[1] If the amount received equalled twenty per cent of the capital invested, a tax of one-half of one per cent was levied; if it was between twenty and thirty per cent, the rate was one and one-half per cent; and for every ten per cent added to the ratio the rate was increased by one-half of one per cent "*ad infinitum.*"[2] It was provided that in no case should the tax be levied upon

[1] Laws of Georgia, 1863, Extra session, title XVIII, act 166, sec. 1.
[2] Laws of Georgia, 1863, Extra session, title XVIII, act 166, sec. 2.

the profits made by farmers upon "the sale of their agricultural production."[1] In order to prevent evasion of the tax, it was provided that if for any reason any person failed to pay the tax assessed against him, the tax collector should bring execution against him for double the amount assessed, and that this amount should be levied and collected as in cases of execution against defaulters.[2]

In December of 1863 the law was reënacted with some extensions and modifications. The tax was made to include the net income or profits made by the purchase or sale of property, by persons keeping hotels, inns, or livery stables, and by brokers, auctioneers, and persons engaged in the manufacture of salt.[3] The act lowered the exemption, changed the method of determining the tax, and materially increased the rate. If the net income or profits above eight per cent of the capital stock amounted to $10,000 or less, it was taxed five per cent; if it was between $10,000 and $15,000, seven and one-half per cent; if between $15,000 and $20,000, ten per cent; if between $20,000 and $30,000, twelve and one-half per cent; if between $30,000 and $50,000, fifteen per cent; if between $50,000 and $75,000, seventeen and one-half per cent; if between $75,000 and $100,000, twenty per cent; and if more than $100,000, twenty-five per cent.[4] If any party failed to comply with the provisions of this act, he became liable to confinement at hard labor in the penitentiary for not

[1] Laws of Georgia, 1863, Extra session, title XVIII, act 166, sec. 6.

[2] Laws of Georgia, 1863, Extra session, title XVIII, act 166, sec. 5.

[3] Laws of Georgia, 1863-4, Regular session, No. 75, sec. 1. The law also extended the tax to the net income or profits of corporations, such as railways, express companies, and insurance companies—a confusion commonly met with.

[4] Laws of Georgia, 1863-4, Regular session, No. 75, sec. 2.

less than one year nor more than five, and the receiver of taxes was required to assess a double tax upon the taxable income of such delinquent.[1] The first act of 1863 assessed a tax upon the net incomes and profits received between April 1, 1862, and April 1, 1863, while the act of December imposed a tax from April 1, 1863, to April 1, 1864.[2]

Much trouble having arisen over the interpretation of the law, in November, 1864, the legislature said that the true intent and meaning of the act was to levy a tax on the net incomes and profits made in the purchase and sale of real and personal property. At the same time the comptroller-general was directed to remit all taxes which had been collected contrary to the law as thus interpreted.[3]

In March, 1865, the tax was made to include the net income and profits received by persons engaged in agriculture, in the manufacture of sugar and syrup, in the manufacture and sale of salt, in milling, and in cooperage. The exemption was raised from eight to ten per cent on the capital stock invested,[4] the rate being continued as before.[5] The tax was to be paid upon income received between April 1, 1864, and April 1, 1865.[6] Punishment for evasion was made severe.[7]

An act of March 3, 1866, provided "that all laws heretofore passed, levying and collecting a tax upon incomes, be and the same are hereby repealed."[8] The

[1] Laws of Georgia, 1863–4. Regular session, No. 75, sec. 3.
[2] Note by compiler at close of the act of December, 1863.
[3] Laws of Georgia, 1864, act 10, sec. 1.
[4] Laws of Georgia, 1865, act 54, sec. 1.
[5] Laws of Georgia, 1865, act 54, sec. 2.
[6] Laws of Georgia, 1865, act 54, sec. 1.
[7] Laws of Georgia, 1865, act 54, secs. 3, 4, 5.
[8] Laws of Georgia, 1865–6, No. 272, sec. 6.

same act continued to levy license taxes and corporation taxes, which were now made to reach a number of the sources formerly reached by the income tax.

The tax appears to have given better satisfaction in Georgia than in any other state. As a source of revenue it was most successful; in 1863, the year the tax was introduced, for instance, incomes were assessed to the amount of $15,737,479 and the tax yielded $683,235.[1] This, together with the fact that no question under the law was ever carried into the courts, points to the conclusion that the object for which it was levied appealed to the loyalty of the citizens and led to the unprecedented success of the law.

Florida's experience was both limited in scope and short in duration. By an act of 1845 a tax of twenty cents was levied upon each $100 of income received by lawyers, doctors,[2] public weighers of cotton and other produce, public inspectors, and pilots.[3] In 1850, as a result of the comptroller's recommendation to extend the tax on incomes and on business,[4] a tax of two per cent was levied upon the commissions of commission merchants and factors.[5] In 1855, however, all these laws were repealed,[6] and no further attempt has been made by Florida to levy an income tax, although she has of late reached trades, like so many of the Southern states, by a general license tax.

West Virginia, when organized into a separate state, made the Virginia code of 1860 the basis of legislation; but it was not until February of 1863 that the legisla-

[1] Avery, History of Georgia, p. 267.
[2] Laws of Florida, 1845, chap. 10, sec. 7.
[3] Laws of Florida, 1845, chap. 28, sec. 9.
[4] Comptroller's report, November 1, 1850.
[5] Laws of Florida, 1850, chap. 357.
[6] Laws of Florida, 1855, chap. 715, sec. 4.

ture of West Virginia enacted Virginia's law[1] providing for the taxation of incomes. A tax of five per cent was levied upon the annual interest or profits derived from bonds of any corporation, state, or country and on dividends annually declared by any saving institution or insurance company. The annual income received by persons from any office or employment (except ministers of the gospel) was taxed three-fourths of one per cent if it was between $250 and $500, one per cent if between $500 and $1000, and one and one-half per cent if over $1000.[2] Physicians, surgeons, dentists, and commission merchants were made subject to a license tax and an income tax of three-fourths of one per cent on the amount in excess of $400; the proprietors of houses of "public entertainment" to a license tax and twelve per cent upon their annual income in excess of $200; keepers of private boarding houses to a license tax and eight per cent on their income in excess of $100; cook shops and eating houses to a license tax and twelve per cent on their annual income in excess of $100.[3] In December of the same year, however, those engaged in business subject to the combined license and income tax were made exempt from the income tax.[4] This act of 1863 has been the only attempt made to tax incomes; the general act passed in December of 1863 made no provision for their taxation and later laws make no reference to the tax. It soon fell into disuse, and by 1875 the present method of taxation based on value had been fully introduced.

Kentucky attempted to provide for an income tax in her constitution of 1849, but failed. In 1867 the asses-

[1] Laws of Virginia, 1859–60, chap. 3.
[2] Laws of West Virginia, 1862–63, chap. 64, sec. 8.
[3] Laws of West Virginia, 1862–3, chap. 64, secs. 10, 11, 12.
[4] Laws of West Virginia, 1863, chap. 123, sec. 18.

sors were directed to require each taxpayer to state on oath the amount of income received from United States bonds and to levy thereon a tax of five per cent.[1] In 1872 this law was declared unconstitutional.[2] In 1868 the tax amounted to $118,526.80;[3] in 1869 to $122,-935;[4] in 1870 to $78,299;[5] in 1871 to $72,216.[6]

Tennessee, although making constitutional provision for an income tax, has never levied a general tax. Since 1883 the law has imposed a tax upon all income derived from United States bonds and from all other bonds and stocks not subject to an ad valorem tax.[7] This is the only attempt that has been made to tax incomes. Mr. Theodore King, the Comptroller of the Treasury, states that this tax has been a failure; while attempts have been made to levy it, no incomes thus far have been reported. However, as early as 1856 the annual income was employed in estimating the value of a large number of industries.[8]

[1] Laws of Kentucky, 1867, vol. 1, chap. 1832.
[2] 9 Bush, 46.
[3] Auditor's report for 1868, p. 121.
[4] Auditor's report for 1869, p. 135.
[5] Auditor's report for 1870, p. 125.
[6] Auditor's report for 1871, p. 121.
[7] Laws of Tennessee, 1883, chap. 105, sec. 7.
[8] Laws of Tennessee, 1855–6, chap. 74, sec. 1.

CHAPTER IX

THE INCOME TAX IN THE WESTERN STATES

Only three states west of the Mississippi river have made any use of the income tax. With the exception of California, which has made constitutional provision for an income tax, the other states have never even recognized it. The three states that have levied the tax, Missouri, Louisiana, and Texas, were all under southern influences.

Missouri, at the outbreak of the war, being in need of revenue, like many of the southern states tried the taxation of incomes, especially such as were derived from profits and salaries. The tax was first levied in 1861. It provided for a tax of thirty-two cents on each $100 of income "derived from public stocks, bank stocks, stocks of chartered companies, or from other property, real or personal, not taxed in the state." The salaries in excess of $800 annually received by any individual from the United States, the state, or from any county or city in the state, or from any corporation was made subject to a like tax.[1] In 1864 the rate was lowered to one-fifth of one per cent and the exemption to $200.[2]

In 1865, as a consequence of the governor's recommendation, the tax upon incomes, salaries, and professions[3] underwent a number of changes. It was required that for the year 1865 a tax of three per cent should be assessed on the salaries of office-holders who were exempt from military duty in consequence of such office and a tax of two per cent on the salaries and in-

[1] Laws of 1860–61, Regular session, p. 62.

[2] Laws of 1863–4, p. 66.

[3] Governor's message, December 26, 1864, p. 14.

come of all other persons, including military officers, whatever the source of such incomes. In all cases an exemption of $600 was allowed. The revenue derived was to be paid into the Union Military Fund. In the assessment of salaries not fixed by law and of other general incomes the tax was to be based upon the amount received during the year next preceding the time of assessment. The individual was required to return the amount of his income under oath, and if he refused to do so or swore falsely the assessor was to assess against him an income as nearly double as he could determine by the best means at his disposal.[1] An unsuccessful attempt was made soon after to prove the tax unconstitutional.[2] However, the attempt to tax incomes in Missouri appears to have soon closed, for the revised statutes of 1866 fail to mention such a tax, and never since has the state levied it. Like Georgia, Missouri employed the income tax simply as a war measure.

Louisiana, although one of the first states in the Union to make constitutional provision for an income tax, was one of the last to levy one. An income tax was provided for constitutionally in 1845, but such a tax was not levied until 1865. The tax law of that year provided for a rate of one-fourth of one per cent on the amount of income in excess of $2000 annually received by all persons pursuing any trade, profession, or occupation.[3] Much trouble having arisen over the collection of the tax, in 1866 the auditor of public accounts was authorized to employ two persons to make under oath complete quarterly assessments of all persons pursuing any trade, profession, or occupation in the city of New

[1] Laws of 1865, p. 112.

[2] 43 Missouri 479.

[3] Laws of 1864, act 55, sec. 3.

Orleans, the chief source of the revenue, and to file the statement in the auditor's office. Any person subject to the tax who failed or refused to make a report of his income or to pay the tax was liable to a penalty of twenty per cent of the amount of tax due.[1] The law did not undergo further change until 1878, when it was provided that the tax should be thirteen mills upon "the excess of all annuities, salaries and incomes over $1000 derived from any source, except from property taxed."[2] In 1882 the rate was lowered to six mills on the dollar.[3] The law has undergone no material change since, still requiring each individual to return for taxation the value of his annuities, salary, or income at the time he returns his other property.[4]

The tax has never received general support. Three different attempts have been made to prove it unconstitutional,[5] but in each case the court has upheld the tax. Although the greatest indifference prevails with respect to the law, attempts to repeal it have been unsuccessful. The tax is insignificant as a source of revenue. In 1868, for instance, the tax yielded $2476 out of a state tax of $508,378;[6] in 1880, $24,723 out of a state tax of $694,940;[7] and in 1899, only $104 out of a state tax of over $2,000,000.[8] The tax was never levied very generally in the state. In 1868 but eleven counties out of the twenty-seven in the state taxed incomes; in 1880,

[1] Laws of 1866, act 25.
[2] Laws of 1878, act 8, sec. 1, p. 229.
[3] Laws of 1882, act 96, pp. 119, 124.
[4] Laws of 1898, act 170, sec. 17, p. 335.
[5] 26 Louisiana 151; 30 Louisiana 910; 34 Louisiana 851.
[6] Auditor's report for 1868.
[7] Auditor's report for 1880.
[8] Auditor's report for 1899.

forty-one out of sixty-four; and in 1899 only two out of fifty-nine.

Since 1861 Louisiana has also levied an extensive graduated license tax based upon income which has played a more important part in the revenue system of the state than has the income tax proper.

Texas began her use of the income tax during the Civil War, as a result of her need of revenue. It was first levied in the spring of 1863 "on each and every person having a fixed annual salary," the rate being "twenty-five cents on each $100 of such salary over and above $500."[1] It was expressly provided that this should apply to public officers as well as to persons engaged by private contract. In December of the same year an act was passed which reached profits by providing for a tax upon the amount of sales in every mercantile business except the liquor business.[2] The following year this law was reënacted and the rate increased.[3]

During this time, it should be said, the combined license and income tax was extensively employed. Persons keeping billiard tables or nine or ten pin alleys, persons doing a storage or warehouse business, owners of ferries or toll bridges, pawnbrokers, negro traders, dentists, and lawyers were required to pay, besides a license tax, a tax of two per cent upon their yearly income.[4] And a similar tax of one per cent was placed, in addition to a license, upon the income of keepers of hotels, restaurants, eating houses, and livery stables, and upon that of butchers, doctors, railroad presidents, directors, conductors, engineers, secretaries, and clerks.[5] Per-

[1] Laws of 1863, chap. 33, sec. 3.
[2] Laws of 1863, chap. 60, sec. 4.
[3] Laws of 1864, chap. 11, sec. 7.
[4] Laws of 1864, chap. 11, sec. 9.
[5] Laws of 1864, chap. 11, sec. 10.

sons liable to the tax were required, under penalty, to report the amount of their income to the local assessor quarterly.

In 1866 the governor in his annual message declared that the tax upon professions yielded but a very small sum and operated oppressively and unequally on many who were not able to bear it, and recommended its repeal and the substitution of a moderate graduated tax upon all incomes above a certain amount.[1] Acting upon this suggestion, the legislature shortly after enacted a law levying a general income tax. It provided that "there shall be levied and collected from every person, firm, corporation or association doing business within the state, at any time during the year 1866 and in every year thereafter, an annual income tax as follows: on the first $1000 of net or taxable income, a tax of one per cent; on the second $1000, a tax of one and one-half per cent; on the third, fourth and fifth $1000, a tax of two per cent; and on all taxable incomes above $5000, a tax of three per cent." A tax was levied also upon salaries by another article requiring that all salaried persons serving in any capacity, except in the army or navy of the United States, should be subject to a tax of one-half of one per cent on all sums received over $600.[2]

In determining the net income subject to taxation, each individual engaged in manufacturing or mercantile business was allowed to deduct from his gross income the rent of the store, shop, manufactory, and the like, insurance on the same, all freight and express charges, wages of employees, and "other expenses." Farmers were allowed to deduct from the rent of land only the average annual outlay for the repair of fences and from

[1] Governor's message of August 16, 1866.

[2] Laws of 1866, chap. 93, p. 91.

the rent of buildings all insurance paid by the owner and actual repairs not to exceed ten per cent of the value of the buildings. From the gross receipts received from farming operations, embracing the value of all live stock and of all agricultural products sold, deductions were allowed for the amount paid for hire, for repairs on the farm or plantation not to exceed the annual average or ordinary repairs, for live stock (if bought) which was sold during the year, and for insurance and interest on any incumbrances upon the farm or plantation. In the case of profits derived from the sale of real estate, if purchased within the year, a deduction was allowed equal to the losses sustained in the sale of real estate also purchased during the year. From interest derived from bonds, notes, mortgages, or securities of any kind, the interest paid or falling due during the year was to be deducted. In addition to the above special exemptions a number of general exemptions were allowed, such as all taxes paid within the year and $600 when the income was returned by the head of a family. In the latter instance, however, it was expressly required that the income of minors should be compounded with those of parents or guardians and only one deduction made.[1] The amount of income together with the exemption was to be made under oath. Despite these elaborate provisions, however, by 1870[2] interest from bonds was the only form of income subject to taxation, and by 1871 most of the objects were reached either by a license tax or by a tax on values.

No further attempt was made to tax incomes until 1899, when a bill was introduced into the lower house

[1] Laws of 1866, chap. 133, secs. 7, 8, p. 140 *et seq.*

[2] Laws of 1870, chap. 84, sec. 32.

of the legislature providing for a tax of one per cent on all personal incomes in excess of $2000. After much opposition it passed the house,[1] but was killed in committee in the senate.[2] The committee gave as the reason for their action that the proposed law covered matters that properly came within the jurisdiction of the contemplated tax commission. If the tax commission ever considered the advisability of such a levy they must have disapproved it, for no reference whatever was made to it in their report.

The north central states call for no extended discussion. Although these states have been settled to a very large extent by people from Massachusetts and other eastern states where the income tax has been in use and although their legislation has been copied from that of the eastern states, yet strangely none of them have incorporated the income tax.

Michigan is the only one of the group that has shown the least tendency even to recognize the tax. From 1838 until about the middle of the nineteenth century that state included in its definition of personal estates for taxation "income from annuities unless the capital from such annuity was taxed within the state."[3] Again, in 1899, through the influence of Governor Pingree, a bill was introduced providing for the taxation of incomes in excess of $1000, but it failed to pass.

[1] House journal, 1899, pp. 136, 358, 351, 699, 1377.
[2] Senate journal, 1899, p. 1037.
[3] Revised statutes of 1838, title V, chap. I, sec. 3.

CHAPTER X

THE INCOME TAX AND THE STATE CONSTITUTIONS

Since the Declaration of Independence the states have adopted about one hundred constitutions. Thirteen of these have made provision for the taxation of incomes. Eight states have adopted constitutions making express provision for levying such a tax; all, with the exception of California, were Southern states, and the constitutions were adopted after 1844.

The sentiment in favor of the taxation of incomes which became so prevalent shortly before the middle of the nineteenth century first crystalized into a constitutional provision in the state of Texas in the year 1845, Louisiana following with a like provision a few months later. As Texas, when she entered the Union, was greatly involved financially on account of her war with Mexico and much in need of revenues,[1] the new constitution which was then adopted gave the legislature power to impose an income tax on all persons pursuing any occupation, trade, or profession, provided the term "occupation" should not be construed to apply to agricultural or mechanical pursuits.[2] The new constitution adopted in 1869 retained this provision,[3] but the present constitution, adopted in 1876, somewhat modified the clause. The legislature is now empowered to tax "the income of both natural persons and corporations other than municipal," but is still required to exempt persons engaged in mechanical or agricultural pursuits from the payment of any occupation tax.[4] To the present time

[1] William Gouge, Fiscal history of Texas, 1834–1852, pp. 145–147.

[2] Constitution of 1845, article VII, sec. 27.

[3] Constitution of 1869, article XII, sec. 19.

[4] Constitution of 1876, article VIII, sec. 1.

only a limited use has been made of the right; and although some are at present demanding an income tax, it is improbable that such a tax will be levied in the near future.

Louisiana quickly followed the example of Texas. In the constitutional convention of 1845 a provision was adopted[1] by a vote of 40 to 23 empowering the legislature to levy an income tax and to tax all persons pursuing any occupation, trade, or profession, without exception.[2] In 1852 a new constitution was adopted and the provision allowing the taxation of incomes was reenacted.[3] The constitution adopted in 1864 incorporated the same provision, but added that "all tax on income shall be pro rata on the amount of income or business done."[4] When the state was readmitted into the Union in 1868 these clauses of the constitution of 1864 were retained without modification.[5] Since 1868 two constitutions have been adopted by the state of Louisiana, one in 1879 and the other in 1898; but neither of these has recognized the taxation of incomes independent of other sources. The tendency in these constitutions has been to provide for an extension of the license system as a substitute for the income tax.

Virginia, six years after Texas and Louisiana took the initiative, adopted a constitution in which the general assembly was given the right to "levy a tax on incomes, salaries and licenses," provided that no tax should be levied on property from which any income so

[1] *See* Proceedings and debates of constitutional convention of 1845, pp. 882, 892, 897.

[2] Constitution of 1845, title VI, article 127.

[3] Constitution of 1852, title VI, article 123.

[4] Constitution of 1864, title VII, sec. 124.

[5] Constitution of 1868, title VI, article 118.

taxed was derived.[1] This constitution of 1851 remained in operation until 1870, when the state was readmitted into the Union and a new constitution adopted. This constitution empowered the general assembly to tax incomes in excess of $600 per annum, and also provided that the capital invested in all business operations the income from which was taxed should be taxed as was other property.[2] The constitution of 1870 is still in operation, and under its provisions Virginia has been one of the most active states in the taxation of income.

No other state recognized the taxation of incomes in its constitution until North Carolina, upon her readmission into the Union in 1868, gave to the general assembly the power to tax trades, professions, franchises, and incomes, provided that no income should be taxed when the property from which the income was derived was taxed.[3] This constitution remains in force at the present time. As we have seen, the state has made considerable use of this privilege, but with questionable results.

Tenessee, when readmitted into the Union in 1870, granted to the legislature power to levy a tax upon income derived from stocks and bonds that were not taxed ad valorem.[4] This constitution remains in force at the present time, but the use made of the privilege granted has been of little importance.

California was the next state to recognize constitutionally the income tax. This state, in her second constitution, adopted in 1879, declared that income taxes might be assessed to and collected from persons, corporations, joint stock associations, or companies resident or doing business in the state in such manner as should

[1] Constitution of 1851, article IV, sec. 25.
[2] Constitution of 1870, article X, sec. 4.
[3] Constitution of 1868, article V, sec. 3.
[4] Constitution of 1870, article II, sec. 28.

be prescribed by law.[1] The constitution is still in operation; but, so far as the right to tax the income of individuals is concerned, no advantage has been taken of the section.

The income tax was not again recognized constitutionally until Kentucky in 1891 adopted her present constitution containing the negative provision that nothing in the constitution shall be construed to prevent the general assembly from providing for taxation based on incomes, licenses, or franchises.[2] The state has made practically no use of the provision in so far as it relates to the taxation of income received by individuals.

South Carolina was the last state to make constitutional provision for the tax. Although an income tax had been previously levied by the state, it was not constitutionally recognized until the constitution of 1895 provided that as an adjunct to the property tax the general assembly might provide for "a graduated tax on incomes and for a graduated license on occupations and business."[3] It is under this provision that the state is making the present interesting attempt to tax incomes.

A general survey of the constitutional enactments making possible the levy of an income tax reveals two distinct periods. One began about the middle of the nineteenth century and continued until about 1870. This was followed by a lull in the movement until very recent years, when the spirit has revived. What will be the result of this present movement it is difficult to say; thus far the disposition has been to follow old lines that already have been tried and found wanting.

[1] Constitution of 1879, article 13, sec. 11.

[2] Constitution of 1891, sec. 174.

[3] Constitution of 1895, article X, sec. 1.

CHAPTER XI

CONCLUSION

We shall now give a brief *résumé* before presenting our conclusion. We cannot charge the commonwealths with slighting the income tax. Of the forty-five states, sixteen have made legislative provision for it, either in a general or special form; of about one hundred constitutions passed by the states, thirteen, representing eight states, have made special provision for its use; and of some forty state tax commissions, which have been appointed by the different states, seven have treated it in their reports.

The use of the income tax proper began about 1840 and has continued to the present time. Its history has been marked by three periods of special activity: one from about 1840 to 1850, during which decade six states introduced the tax; another from 1860 to 1870, during which decade seven introduced it; and a third from about 1895 to the present, which has been marked by a revival of the movement. Of the sixteen states that have employed it, six are still using it—Massachusetts, Virginia, North Carolina, South Carolina, Louisiana, and Tennessee.

Massachusetts has had the longest experience with the tax, extending from 1643 to the present time. South Carolina's experience began in 1701 and, with the exception of about thirty years, has extended to the present. Pennsylvania levied the tax from 1841 to 1871; Maryland, from 1842 to 1850; Virginia, from 1843 to the present; Alabama, from 1843 to about 1886; Florida, from 1845 to 1855; North Carolina, from 1849 to the present time. With but one exception the states

introducing the tax between 1860 and 1870 employed it for only very short periods. Missouri employed the tax from 1861 to 1866; Texas, from 1863 to 1868; Georgia, from 1863 to 1866; West Virginia during 1863; Louisiana, the one exception, from 1865 to the present time; Kentucky, from 1867 to 1872; Delaware, from 1869 to 1872. Tennessee tried the tax in 1883, but then, like Kentucky, only to a very limited extent.

Two causes have led to the introduction of the income tax; the demand for greater justice in the distribution of the burdens of taxation, and the need of increased revenue. A third cause, a desire to regulate the business from which the income is derived, has operated in a few instances. The need of revenue was the dominant force leading to the introduction of the tax in the period between 1840 and 1850, and also in that between 1860 and 1870. In the first period this need was due to the enormous state debts resulting from extensive internal improvements; in the second period, to the heavy expenses incurred by the Civil War. It must be recognized, however, that the democratic influences which were felt in almost every department of political life about 1840 had not a little influence on the movement during the earlier period. During the present period the demand for justice appears to be the dominant force, although in South Carolina, as we have seen, the financial need is having weight.

The states employing the tax have spared neither time nor ingenuity in attempting so to frame the laws as to make the tax effective. Every possible method has been tried. The tax has been levied as a general income tax upon all forms of income and as a special income tax upon one or more forms of income; without regard to the source of the income and modified accord-

ing to the source; as an apportioned tax, and as a percentage tax. The rate has been made proportional, progressive, and partly proportional and partly progressive. The exemption has been a fixed sum applied to all income and a sum varying with the form of income and with particular classes of individuals. The administration of the law has been under the direct supervision of the central government, and it has been left to the option of the local units. The tax has been employed strictly as a war measure, as a peace measure, and as both.

Of all the states using the tax, six have levied it as a general income tax, affecting all forms of income — rent, interest, wages, and profits. These states are Massachusetts, South Carolina, Virginia, Alabama, North Carolina, and Texas. The scope of the tax in Massachusetts, however, has varied with the different local interpretations placed upon the law.[1] The remaining ten states have each taxed some one or more of the four forms of income. All of them except Georgia, Tennessee, and Kentucky have taxed incomes from personal services, salaries being especially mentioned; seven of them, all except Florida, Tennessee, and Kentucky, have taxed profits. Five, Delaware, West Virginia, Kentucky, Tennessee, and Missouri, have taxed interest. The rate of the tax has usually been proportional, although six of the states have made use of the progressive rate.

An exemption has been very generally allowed, varying both in the different states and at different times in the same state. When a fixed sum has been allowed, it has been usually from $300 to $2500, $500 and $1000 being the most common amounts. The exemption at present allowed in South Carolina is $2500. Many of

[1] See *supra*, pp. 27-29.

the states have provided for special exemptions, such as the expenses of the business from which the income is derived and the incomes of particular classes of individuals, such as ministers of the gospel, state judges, and certain classes of laborers.

The administration of the tax has been much the same in all the states. It has been assessed, as a rule, by the local assessors and collected by the local tax collectors. The laws have required that the tax should be levied by self-assessment, almost invariably under severe penalties for failure to comply.

The revenue derived from the income tax has been insignificantly small. For instance, Alabama in 1882, during the period of her most successful experience, received an income tax of only $22,116 out of a state tax of over $600,000. In 1899 North Carolina's income tax amounted to only $4399 out of a total tax of $723,307. Virginia in 1899 received only $54,565 from this source, while her state tax amounted to $2,132,368. South Carolina in 1898, while levying a state tax of about $1,000,000, received only $5190 from her tax upon incomes.

The attitude of the state courts toward the income tax has been one of sympathy. In the few cases upon the subject brought before them they have upheld the tax. Had all forces been as active in support of the system as the state courts, the tax would undoubtedly have been a success.

Of the thirteen state constitutions providing for the taxation of incomes, Texas has adopted three; one in 1845, a second in 1869, and a third, still in force, in 1876. Louisiana has also adopted three constitutions making special provision for the tax; one in 1845,

another in 1852, and a third in 1868. The constitutions of 1879 and of 1898 failed to make such a provision. Virginia has provided for the tax since 1851, the constitution of that year and also that of 1870, still in force, expressly allowing the tax. The next state to provide for the tax in her constitution was North Carolina in 1868. Tennessee, in her constitution of 1870, still in force, incorporated a similar provision. California did likewise in her constitution of 1879, now in operation. Kentucky followed in 1891, and South Carolina, the last of the states to make such provision, in 1895.

Of these thirteen constitutions, seven placed no limitations whatever upon the taxation of incomes—the three constitutions of Texas, the Louisiana constitutions of 1845 and of 1852, the California constitution of 1879, and the Kentucky constitution of 1891. The constitution of Virginia adopted in 1851 provided that in no case should property be taxed when a tax was levied upon the income from it. The constitution of 1870 went to the opposite extreme; although limiting the income tax to the amount in excess of $600, it expressly required the taxation of the capital invested in the business yielding the income. The Louisiana constitution of 1868, in operation until 1879, required the tax to be levied "pro rata on the amount of income or business done;" the North Carolina constitution of 1868 prohibited the taxation of income from property otherwise taxed; and the Tennessee constitution of 1870 confined it to the taxation of income from stocks and bonds not taxed ad valorem. The present constitution of South Carolina, adopted in 1895, provides that the tax must be graduated.

The states have appointed in all some forty tax commissions, which have given the various tax systems the most careful study,[1] sparing neither time nor pains in their attempt to obtain the most satisfactory system. Eight commissions have treated the income tax in their reports; but only two, the Massachusetts commissions of 1875 and of 1893, have recommended its employment. The principal reason given in each case was that without such a tax some justly subject to taxation would escape. Each report encountered serious opposition; in the commission of 1893 it took the form of a minority report. The chief reasons given by the opposition for their position were that an income tax results in double taxation and that it is impossible justly to administer it. Three minority reports, however, have favored the tax, one by Professor R. T. Ely, a member of the Maryland tax commission of 1886; another by Mr. Wright, a member of the Pennsylvania commission of 1889; and a third by Mr. McNeill, a member of the Massachusetts commission of 1897. The reasons advanced are largely theoretical.

On the other hand, besides the minority report of the Massachusetts commission of 1893, three commissions have expressed their disapproval of the tax; the Maine commission of 1890, the New York commission of 1892, and the Massachusetts commission of 1897. The reason given by the Maine and Massachusetts commissions was that the tax is incapable of practical application; that given by the New York commission was that it is inquisitorial and against the republican spirit. The Texas commission of 1899, to whom the subject of the income tax was referred by the legislature, failed to treat it in

[1] State tax commissions in the United States, by J. W. Chapman, Jr., in Johns Hopkins University Studies, vol. 15, 1897, pp. 461–566.

their report, probably because it met their disapproval. It is significant that the commissions of Massachusetts, where the tax has been longest tried, have finally recommended its repeal.

The experience of the states with the income tax warrants the conclusion that the tax, as employed by them, has been unquestionably a failure. It has satisfied neither the demands for justice nor the need of revenue. The question arises: Is this failure due to qualities inherent in the nature of the tax, or is it the result of conditions which may be removed? One of the fundamental principles of taxation is that the subjects of a state ought to contribute to the support of the government in proportion to their respective abilities, and it is generally agreed that these abilities are best measured by income.[1] Therefore, theoretically at least, an income tax is unquestionably the fairest system yet proposed. Throughout the history of the tax in the several states the opposition has never seriously attacked it from a theoretical standpoint.

If the failure is to be attributed to the application of the principle, either the laws have failed to embody this principle properly, or the administration has been ineffective. While much of the legislation in the states relative to the income tax has been very unsatisfactory, often not appealing to the taxpayers' sense of justice and furnishing excuses for the concealment of property, nevertheless laws have been passed repeatedly which, if

[1] Some maintain that other facts than the income should be considered in estimating one's taxpaying ability; for instance, the source of the income as well as the amount, and also the individual's ability to spend wisely. However, we are ordinarily concerned less with the question, Is the income tax an ideal tax, a perfect tax? than with the question, Is it better than the existing system; if introduced, would it be an improvement upon the existing system?

properly administered, would have distributed the burdens with unusual justice. But these laws have failed quite as completely as those with provisions less satisfactory. The failure of the tax, therefore, can not have been due to the ill success of the laws in embodying the principle.

A careful study of the history of the tax leads one to the conclusion that the failure has been due to the administration of the laws. This conclusion is borne out by both the admissions of the advocates and the assertions of the opponents of the tax, and is corroborated by the reports of tax commissions. The causes operating to produce this failure in administration appear to have been four: the laws themselves have been defective in the provisions for their own administration; the officials have been lax in the enforcement of the laws; the taxpayers have been persistent in evading them; and the nature of some incomes has made them especially difficult to reach. The income tax laws thus far, failing to recognize the weakness of the average taxpayer, have allowed him to return his own income. Some argue that to employ any other method would be undemocratic and that public sentiment would never submit to it. However, although the public has always opposed any inquisitorial system, the opposition has been often due rather to the fear that it may attain the end sought than that it is counter to the spirit of democracy. Often the taxpayer has something he wishes to conceal and calls on the "spirit of democracy" to help him out. We have yet to learn of a plausible argument in support of the assertion that the income tax is more inquisitorial than other forms of direct taxation.[1] The income tax has

[1] On this and similar objections see Professor Ely's supplementary report to the Maryland tax commission of 1886, p. 175.

succeeded in nations quite as democratic as the United States. Other methods than self-assessment have been employed successfully, both by foreign nations and to a limited extent by some of our own states. The use of the method of self-assessment has been due, not to public demands, but largely to the indifference of legislators. However, it is not to be condemned except that it furnishes the means by which the taxpayer, if he wishes to do so, may escape the tax.

The laxness of the officials in the enforcement of the laws doubtless also has had much to do with the failure of the income tax. Although the laws have usually required the assessors to demand from each taxpayer a full statement of his income and to enforce their demand by a severe penalty, they have not only failed to do this, but in listing the individual's property have also entirely neglected his income or assessed it so low as to make the tax derived therefrom unimportant. Before we can hope for a successful taxation of incomes, officials must be faithful in the performance of their duty.

The taxpayer also has contributed much to the failure of the income tax. Not only has he taken advantage of every opportunity to escape it, but he has also exercised his ingenuity to contrive means of evading it. The taxpayer with an elastic conscience and a good opportunity has usually succeeded in escaping the tax upon such property as could be concealed.

The nature of income is such as to make concealment comparatively easy. Much income is received in such form as to make it quite impossible for any one except the recipient to know its amount, or at least to make more than a mere estimate, and even the recipient, in many instances would find it quite impossible to be accurate.

Some of these evils undoubtedly could be corrected. Another method of assessment could be employed; the officials could be compelled to perform their duty; many of the difficulties met with in the determination of income could be removed; even the conscience of the taxpayer could be improved: but so long as the four remain as they are, it is useless to hope for a successful income tax. Indeed, so long as we permit taxpayers possessing dormant consciences to employ the method of self-assessment, failure is almost certain. We must abandon the one or develop the other. Some believe that a heavy fine, rigidly enforced, for failure to return income would make the tax effective; but while this would doubtless result in great improvement, it would not insure success.

Not a little in the way of changing the attitude of the taxpayer towards the income tax may be done by a more careful framing of the laws, so that they will better appeal to his sense of justice. Even more may be done by judicious state expenditures, demonstrating that the payment of taxes is not a waste of money. If this almost universal tendency to escape taxation when possible could be eradicated, the difficulties of enforcing an income tax would disappear. But as this tendency is too deep-seated to make its removal possible, we must turn to a consideration of the other alternative, a change in the mode of assessment.

The English income tax has been satisfactory only where assessment at the source has been employed; where it has been necessary to rely on self-assessment, as it has been in one or two classes, the tax has been a failure. The state of Pennsylvania also has employed the method of assessing income at its source with marked

success. Of it one writer says,[1] "It is the fairest and most economical means of raising value which the state possesses. In 1886 it contributed fifty-three and three-tenths per cent of the total revenue from all sources. By reason of it, it became possible in 1867 to release real estate from taxation for state purposes."

The extent to which this method of assessment could be applied to general incomes in this country is uncertain. The Massachusetts tax commission of 1897 considered it practically impossible. With our present industrial organization, much income is derived from sources not accessible and consequently determinable only by the method of self-assessment. Indeed, it would often be very difficult for the taxpayer himself to determine the exact amount of his income; especially is this true of the agricultural classes and, indeed, of a large portion of the business and professional classes. In England industry is carried on in such a way that three-fourths of the income can be taxed with no question or demand of the individual taxpayer; this would be impossible in our states. While the method of assessment at the source can be applied to a few forms of income, and in so far as it is possible to do so the income tax would be successful, still we must also say that with our present system of industry the method could not be applied by our states to a large part of the income received and that therefore a general state income tax must be a failure.

As the result of our study we conclude that the state income tax has been a failure, due to the failure of administration, which, in turn, may be attributed to four causes—the method of self-assessment, the indif-

[1] T. K. Worthington, Historical sketch of the finances of Pennsylvania, p. 91.

ference of state officials, the persistent effort of the taxpayers to evade the tax, and the nature of the income. The tax can not be successful so long as taxpayers desirous of evading taxation are given the right of self-assessment. Since all attempts to change the method of self-assessment have failed and the nature of industry in the states is at present such as to make impossible the assessment of a general income tax at the source, we are forced to the conclusion that, even though no constitutional questions should arise, failure will continue to accompany the tax until our industrial system takes on such form as to make possible the use of some method other than self-assessment.

APPENDIXES

APPENDIX A

The following table, compiled from the report of the Massachusetts tax commission of 1897, pages 262–3, gives the incomes and personal estates as assessed in the several counties of Massachusetts in 1895 :

County.	Tangible Personal Estate.	Intangible Personal Estate.	Income.	Total Personal Estate.
Barnstable	$1,919,800	$6,622,153	$10,000	$8,541,953
Berkshire	4,000,533	2,730,895	30,408	6,731,428
Bristol	3,127,788	3,156,875	6,100	6,284,663
Dukes	309,590	92,883	--------	402,473
Essex	6,840,624	11,814,269	56,300	18,654,893
Franklin	3,171,445	858,661	50,035	4,030,106
Hampden	4,018,665	791,213	17,100	4,809,878
Hampshire	2,866,217	1,197,058	57,400	4,063,275
Middlesex	9,419,976	11,501,718	791,555	20,921,694
Nantucket	215,792	709,809	--------	925,601
Norfolk	7,135,782	33,462,175	301,382	40,597,957
Plymouth	4,914,330	3,878,492	88,125	8,792,822
Suffolk	211,080	149,270	13,000	360,350
Worcester	15,856,640	6,826,970	108,300	22,683,610
Total	$64,008,262	$83,792,441	$1,529,705	$147,800,703

APPENDIX A (CONTINUED)

The following table, compiled from the report of the Massachusetts tax commission of 1897, pages 268–9, gives the value of incomes and the total value of personal property in the several cities of Massachusetts as assessed in 1896:

CITY.	Income.	Total Personal Property.
Beverly	$10,000	$3,092,300
Boston	------[1]	198,507,500
Brockton	115,700	2,909,745
Cambridge	------	15,312,600
Chelsea	------	2,280,900
Chicopee	40,600	2,385,030
Everitt	------	683,450
Fall River	368,950	26,329,750
Fitchburg	163,416	4,145,594
Gloucester	------	2,752,840
Haverhill	28,469	3,816,355
Holyoke	300,180	7,116,160
Lawrence	-----	7,627,025
Lowell	82,425	14,374,555
Lynn	------[1]	9,035,007
Malden	453,500	2,449,400
Marlborough	------	1,011,750
Medford	827,650	2,315,450
New Bedford	127,050	19,685,180
New Berryport	3,000	2,212,700
Newton	39,000	10,634,300
North Adams	14,000	1,458,930
North Hampton	------	2,015,520
Pittsfield	55,450	2,630,420
Quincy	300,000	2,385,700
Salem	62,900	8,885,100
Summerville	------[1]	3,741,000
Springfield	755,350	11,734,460
Taunton	83,300	4,163,980
Waltham	15,000	4,428,600
Woburn	33,000	1,313,667
Worcester	------	15,697,250
Totals	$3,880,220	$397,032,218

[1] No report.

APPENDIX B

The following table, compiled from the auditors' reports for the respective years, shows the amount of the tax upon incomes in Virginia compared with the total tax upon real estate, personal property, and polls, and also the number of counties returning the income tax compared with the total number of counties in the state :

YEAR.	Income Tax.	Tax from Real Estate, Per. Prop. and Polls.	Counties Returning Income Tax.	Counties in the State.
1845	$16,617 32	$438,153 38	124	131
1853	36,303 91	1,059,016 77	140	145
1858	99,480 77	2,583,982 50	147	152
1863	178,944 92	7,205,077 38	68	79
1869	60,079 22	1,731,654 24	102	109
1874	37,695 64	2,459,854 61	79	94
1879	29,431 50	1,106,534 72	69	96
1887	38,950 84	1,721,222 62	67	100
1888	38,144 80	1,741,757 79	71	100
1889	45,906 69	177,914 36	74	100
1890	51,246 69	1,828,035 12	73	100
1891	62,206 70	1,959,751 73	72	100
1892	54,154 44	1,987,278 68	71	100
1893	51,700 12	1,996,545 02	72	100
1894	40,943 41	1,979,823 09	64	100
1895	43,026 26	1,983,042 30	67	100
1896	42,377 81	2,000,249 66	72	100
1897	37,502 27	2,044,110 71	68	100
1898	43,204 72	2,048,468 55	73	100
1899	54,148 38	2,080,967 21	77	100
1900	54,564 93	2,132,367 77	73	100

APPENDIX C

The following table, compiled from the auditors' reports for the respective years, shows the amount of the tax upon incomes in North Carolina compared with the total state tax, and also the number of counties returning the income tax compared with the total number of counties in the state :

YEAR.	Income Tax.	Total State Tax.	Counties Returning Income Tax.	Counties in the State.
1849	$28,277 19	$141,609 01	75	79
1850	28,802 00	151,713 12	75	80
1867	3,838 97	226,765 00	58	70
1877	1,683 33	495,542 49	28	94
1890	2,112 34	601,249 91	25	96
1891	1,471 33	677,826 50	46	96
1892	931 43	661,409 03	36	96
1893	2,695 15	586,905 35	32	96
1894	2,822 02	571,310 06	33	96
1895	2,730 57	589,385 32	38	96
1896	3,460 02	604,542 01	39	96
1897	4,594 15	619,490 52	53	96
1898	4,251 44	627,081 42	53	96
1899	4,398 73	723,307 36	58	96

APPENDIX D

The following table, compiled from the auditors' reports for the respective years, shows the amount of the tax upon incomes in Alabama compared with the total state tax, and also the number of counties returning the income tax compared with the total number of counties in the state :

YEAR.	Income Tax.	Total State Tax.	Counties Returning Income Tax.	Counties in the State.
1870	$11,547 16	$1,122,785 45	49	64
1872	8,269 07	767,193 38	47	65
1875	3,778 54	459,263 59	31	65
1879	8,109 46	790,000 00	50	66
1880	9,078 39	521,346 32	48	66
1881	11,705 48	620,805 81	46	66
1882	22,115 93	659,044 10	50	66
1883	14,362 59	610,782 18	48	66
1884	11,532 35	678,421 54	48	66

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